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TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 221]

PART 608—RESTRICTED AREAS

ALTERATIONS

The restricted area alteration appearing hereinafter has been coordinated with the civil operators involved, the Army, the Navy and the Air Force,

through the Air Coordinating Committee, Airspace Panel and is adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

In § 608.26, the Strong Arm, Louisiana, Temporary Restricted Area, is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Strong Arm, Louisiana, temporary restricted area (Beaumont).	Two statute miles radius from center of Natchitoches, Louisiana Airport.	Surface to 3,000 feet MSL.	Continuous...	Maneuver Director, Camp Polk, La.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective on May 3, 1958, 0000 until 2359 c. s. t., inclusive.

[SEAL]

APRIL 10, 1958.

WILLIAM B. DAVIS,
 Acting Administrator of Civil Aeronautics.

[F. R. Doc. 58-2818; Filed, Apr. 16, 1958; 8:45 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation

[Amdt. 3]

PART 401—FEDERAL CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1958 AND SUCCEEDING CROP YEARS

ORANGES

The above-identified regulations, as amended (22 F. R. 6557, 7210, 8473, 9515, 11024; 23 F. R. 289, 869, 2373), are hereby amended effective beginning with the 1958 crop year as follows:

1. The first introductory paragraph to the regulations is amended by striking the colon which precedes the first proviso contained therein and adding the following: "and to other continuous contracts for which endorsements are added from time to time:".

2. The table following paragraph (a) of § 401.3, as amended, is amended by establishing a closing date of September 30 for oranges in all counties in California.

3. The following section is added:

§ 401.25 *The orange endorsement.* The provisions of the orange endorsement, which shall apply only to counties in California for the 1958 and succeeding crop years, are as follows:

1. *Cause of loss insured against.* The insurance provided is against unavoidable loss of production on the insured orange crop due to freeze.

2. *Insured crop.* In lieu of all of section 1 of the policy except the first and last sentence thereof, the following shall apply:

(a) The insured acreage for each crop year shall be that acreage of navel and valencia oranges in the county for which coverage is shown on the county actuarial table and in which the insured had an interest on the date insurance attaches and the interest insured shall be the interest of the insured in such acreage at that time, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

(b) Insurance for each crop year of the contract shall cover only oranges setting from the annual bloom occurring in the calendar year in which the insurance period begins.

(c) Acreage having a potential production for any crop year of less than 200 standard citrus field picking boxes per acre as deter-

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CFR SUPPLEMENTS (As of January 1, 1958)

The following Supplements are now available:

Title 7, Parts 900 to 959 (\$1.00)
Titles 22-23, Rev. Jan. 1, 1958 (\$4.25)
Titles 28-29 (\$1.50)

Previously announced: Title 3, 1957 Supp. (\$0.40); Titles 4-5 (\$1.00); Title 8, Rev. Jan. 1, 1958 (\$3.25); Title 9 (\$0.75); Titles 10-13 (\$1.00); Title 17 (\$0.65); Title 18 (\$0.50); Title 20 (\$1.00); Titles 30-31 (\$1.50); Title 32, Parts 700-799 (\$0.60), Part 1100 to end (\$0.50); Titles 35-37 (\$1.00); Title 39 (\$0.60); Titles 40-42 (\$1.00); Title 43 (\$0.70); Title 46, Parts 1-145 (\$0.75), Parts 146-149, Rev. Jan. 1, 1958 (\$5.50); Title 49, Part 165 to end (\$0.75)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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mined by the Corporation is uninsurable for that crop year.

3. *Responsibility of the insured to report acreage and interest.* In lieu of section 2 and subsection 21 (a) of the policy, the insured shall report on a form prescribed by the Corporation, at the time the application for orange crop insurance is filed, all of the acreage of oranges (including a designation of any acreage of oranges to which insurance does not attach) in the county in which he has an interest and his interest therein. If the actual acreage of oranges or interest therein shown on such form changes prior to the date insurance attaches for any crop year, the insured shall submit a report to the county office of such changes, on a form prescribed by the Corporation, prior to the date insurance attaches for that crop year.

4. *Annual premium.* In lieu of subsection 4 (a) of the policy, the annual premium for the insured crop shall be earned and payable on the date insurance attaches.

5. *Insurance period.* Insurance on any insured acreage shall attach on the October 1 at the beginning of each crop year and with respect to any portion of the crop shall cease upon harvest, but in no event shall insurance remain in effect later than March 31 of the following calendar year.

6. *Notice of loss—Inspection of groves.* In lieu of section 8 of the policy, if at any time during the insurance period the orange crop on any insurance unit is damaged by freeze the insured (a) shall give written notice of the date and estimated extent of damage to the Corporation at the county office within seven days, and (b) shall not harvest oranges on any acreage damaged by freeze until the Corporation has inspected the oranges on such acreage. If any such notice is not given or oranges are harvested prior to the Corporation's making an inspection, no damage shall be deemed to have occurred unless the insured furnishes the Corporation evidence from which it can determine to its satisfaction the extent of damage caused by freeze.

7. *Abandonment of crop.* In lieu of section 9 of the policy, there shall be no liability under the contract on any orange crop or

part thereof which is abandoned by the insured without the written consent of the Corporation. There shall be no abandonment of any crop or portion thereof to the Corporation.

8. *Claims for loss.* (a) In lieu of subsection 11 (a) of the policy, any claim for loss on an insurance unit shall be submitted, on a form prescribed by the Corporation, promptly after the amount of loss can be determined, but not later than the earlier of (1) 30 days after the completion of harvest on the insurance unit, or (2) July 31 of the crop year in which the loss occurred.

(b) In lieu of subsection 11 (c) of the policy, losses shall be determined separately for each insurance unit. The amount of loss with respect to any insurance unit shall be determined by (1) multiplying the insured acreage of oranges on the insurance unit by the applicable coverage per acre, (2) multiplying the result thus obtained by the average percent of damage for all of the orange crop on such unit, (3) deducting therefrom 10 percent of the amount obtained in (1) above, and (4) multiplying the remainder by the insured interest.

(c) The average percent of damage to oranges on an insurance unit shall be the ratio of the number of standard citrus field picking boxes of oranges lost from freeze to the total number of standard citrus field picking boxes which was or would have been produced. The number of boxes which was or would have been produced shall include (1) oranges picked before the insured damage occurs, (2) oranges remaining on the trees after the damage occurs, (3) oranges lost from freeze, and (4) any other oranges not included in items (1) through (3), including oranges lost from causes not insured against other than normal dropping. Oranges lost from freeze shall be oranges to which damage from freeze is serious as defined in the Agricultural Code of California (as amended through January 1, 1958) as determined by the Corporation from grove inspections, marketing agency records, proof furnished by the insured, or from any other evidence that may be made available. The Corporation reserves the right to delay the determining of the extent of damage from the insured makes available to it complete freeze and the settlement of any loss until records of the marketing of the insured crop for the crop year.

9. *Life of contract, cancellation or termination thereof.* In lieu of item (1) of subsection 15 (a) of the policy, for any crop year insurance on oranges shall terminate as if canceled by the Corporation prior to the cancellation date if by the termination date for indebtedness any amount due the Corporation for insurance on oranges remains unpaid.

10. *Meaning of terms.* For purposes of insurance on oranges the terms:

(a) "Crop year," in lieu of section 21 (e) of the policy, means the period beginning October 1 and extending through September 30 of the following calendar year, and shall be designated by reference to the calendar year in which the insurance period begins.

(b) "Harvest" means any severance of oranges from the tree either by pulling or picking or picking the marketable oranges from the ground.

(c) "Insurance unit," in lieu of section 21 (f) of the policy, means all insurable acreage in the county of any one insurable variety of oranges (navel or valencia) (1) in which the insured has 100 percent interest on the date insurance attaches that is located on contiguous land under the same ownership, or (2) in which two or more persons have 100 percent interest on the date insurance attaches that is located on contiguous land under the same ownership, excluding any other acreage of oranges in which such persons do not have 100 percent interest on such date. Land rented for cash or for a fixed commodity pay-

ment shall be considered as owned by the lessee. Contiguous land shall include only land that is touching at any point except that land that is separated only by a public or private way shall be considered contiguous.

11. *Cancellation, termination for indebtedness and discount dates.* (a) For each year of the contract the cancellation date shall be the July 31 and the termination date for indebtedness shall be the September 30 immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

(b) For each crop year of the contract the discount date shall be the date insurance attaches for such crop year.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U. S. C. 1506, 1516. Interpret or apply secs. 507, 508, 509, 52 Stat. 73, as amended, 74, as amended, 75; 7 U. S. C. 1507, 1508, 1509)

Adopted by the Board of Directors on April 1, 1958.

[SEAL] F. N. MCCARTNEY,
Secretary,
Federal Crop Insurance Corporation.

Approved on April 11, 1958.

MARVIN L. McLAIN,
Assistant Secretary.

[F. R. Doc. 58-2835; Filed, Apr. 16, 1958;
8:48 a.m.]

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

Subchapter A—Armed Services Procurement Regulations [Amtd. 27]

PART 3—PROCUREMENT BY NEGOTIATION MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments are made to this subchapter:

1. Sections 3.106-3 and 3.106-4 have been amended as follows: § 3.106-3 sets forth a procedure which will provide in negotiated procurement that unsuccessful offerors will be furnished written notice that their offers were unacceptable and certain details concerning the award. In addition § 3.106-3 provides for furnishing unsuccessful offerors, upon request, with the reasons why they were unsuccessful. Section 3.106-4 provides for public release of all of the information furnished under the procedure set forth in § 3.106-3 except the reasons why individual offerors did not receive the award. These changes are responsive to the legislative recommendations in Subcommittee Proceedings No. 3 of the Subcommittee for Special Investigations of the House Committee on Armed Services, issued June 15, 1957. Sections 3.106-3 and 3.106-4, as revised, read as follows:

§ 3.106-3 *Award information to unsuccessful offerors.*—(a) *Notice to unsuccessful offerors.* (1) Promptly after making all awards in any procurement in excess of \$10,000, the contracting officer shall give written notice to the unsuccessful offerors that their proposals were not accepted, except where the contract is exclusively for experimental, developmental, or research work, or is negotiated

pursuant to title 10, United States Code, section 2304 (a) (4), (5), or (6) (see § 3.204, § 3.205 or § 3.206). Such notice shall also include:

- (i) The number of prospective contractors solicited;
- (ii) The number of proposals received;
- (iii) The name and address of each offeror receiving an award;
- (iv) The items, quantities, and unit prices of each award; *Provided*, That where the number of items or other factors makes the listing of unit prices impracticable, only the total contract price need be furnished; and
- (v) A statement that additional information may be requested from the contracting officer.

(2) In procurements of \$10,000 or less and subject to the exceptions in subparagraph (1) of this paragraph, the information described in subparagraph (1) of this paragraph shall be furnished to unsuccessful offerors upon request.

(b) *Additional information.* Upon request, unsuccessful offerors whose offered prices were lower than those of the contractor which received the award shall be furnished the reasons why their proposals were not accepted; but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror.

(c) *Classified information.* Classified information shall be furnished only in accordance with regulations governing classified information.

§ 3.106-4 *Publicizing award information.* The information contained in the notice to unsuccessful offerors prescribed by § 3.106-3 (a) (1) shall:

- (a) Be posted in a public place at the purchasing activity for at least seven days; and
- (b) Be included in all press releases or public announcements concerning negotiated awards.

2. Section 3.210-3 has been amended to provide that whenever contracts in excess of \$50,000 are negotiated on the ground that it was impossible to draft specifications, they must now be reviewed by a responsible official at a level above the contracting officer. This change is responsive to the legislative recommendations in Subcommittee Proceedings No. 3 of the Subcommittee for Special Investigations of the House Committee on Armed Services, issued June 15, 1957.

§ 3.210-3 *Limitation.* The authority of this section shall not be used when negotiation is authorized by the provisions of § 3.211, § 3.213, § 3.214, § 3.215 or § 3.216. The authority contained in § 3.210-2 (m) shall not be used in procurements in excess of \$50,000 unless its use is approved in advance at a level higher than the contracting officer. Every contract that is negotiated under the authority of § 3.210 shall be accomplished by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

G. C. BANNERMAN,
Director for Procurement Policy,
Office of Assistant Secretary
of Defense (Supply and
Logistics).

APRIL 10, 1958.

[F. R. Doc. 58-2817; Filed, Apr. 16, 1958;
8:45 a. m.]

Chapter VI—Department of the Navy

Subchapter E—Claims

PART 750—NAVY GENERAL CLAIMS

PART 753—FOREIGN, NONCOMBAT CLAIMS

REVISION OF PARTS

Scope and purpose. Parts 750 and 753 are revised to reflect current law and regulations.

1. Part 750 is revised to read as follows:

PART 750—NAVY GENERAL CLAIMS

Subpart A—Federal Tort Claims

ADMINISTRATIVE CLAIMS

- Sec. 750.1 Definition.
- 750.2 Statutory authority.
- 750.3 Scope of provisions governing administrative settlement of Federal tort claims under Title 28, United States Code.
- 750.4 Effect on prior legislation.
- 750.5 Claims in excess of \$1,000.
- 750.6 Attorneys' fees.
- 750.7 Statute of limitations.

SUIT AGAINST THE UNITED STATES

- 750.8 Statutory authority for action.
- 750.9 Scope of civil action provisions of 28 U. S. C. 1346 (b).
- 750.10 Extent of Government liability.
- 750.11 Compromise settlements.
- 750.12 Effect of judgment.
- 750.13 Attorneys' fees.
- 750.14 Action on claims previously presented administratively.
- 750.15 Statute of limitations.
- 750.16 Appeal.

Subpart B—Other Administrative Claims

MILITARY CLAIMS ACT (10 U. S. C. 2733)

- 750.17 Definitions.
- 750.18 Statutory authority.
- 750.19 Scope of the Military Claims Act (10 U. S. C. 2733).
- 750.20 Claims in excess of \$1,000.
- 750.21 Claims "otherwise incident to non-combat activities of the Navy Department or of the Navy."
- 750.22 Bailed personal property.
- 750.23 Use and occupancy of real property.
- 750.24 Damage, loss, or destruction of mail.
- 750.25 Claims arising in foreign countries.
- 750.26 Statute of limitations.

10 U. S. C. 7625

- 750.27 Statutory authority.
- 750.28 Scope of 10 U. S. C. 7625.

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- 750.29 Measure of damages.
- 750.30 Who constitutes a proper claimant.
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- 750.41 Approval of claims.
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- 750.43 Settlement agreement.
- 750.44 Payment of claims.
- 750.45 Claims in favor of the United States.
- 750.46 Disclosure of information.
- 750.47 Authority for issuance of Instructions by the Judge Advocate General.

SUBPART A—FEDERAL TORT CLAIMS ACT

AUTHORITY: §§ 750.1 to 750.16 issued under sec. 6011, 70A Stat. 375; 10 U. S. C. 6011. Interpret or apply secs. 2671-2680, 62 Stat. 982-984, as amended; 28 U. S. C. 2671-2680.

ADMINISTRATIVE CLAIMS

§ 750.1 *Definition.* The term "employee of the Government", as used in §§ 750.1 to 750.16, includes members of the naval forces of the United States, officers or employees of the Navy, and persons acting on behalf of the Navy in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

§ 750.2 *Statutory authority.* Pursuant to, and subject to the limitations of, Part 2 of the Federal Tort Claims Act as amended (28 U. S. C. 2671-2680), the Secretary of the Navy, or his designee for the purpose, acting on behalf of the United States, is authorized to consider, ascertain, adjust, determine and settle any claim for money damages of \$1,000 or less against the United States, accruing on or after January 1, 1945, for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant, in accordance with the law of the place where the act or omission occurred.

§ 750.3 *Scope of provisions governing administrative settlement of Federal tort claims under Title 28, United States Code.*

(a) Subject to the exceptions set forth in paragraphs (b) and (c) of this section, the provisions governing administrative settlement of federal tort claims under Title 28, United States Code and §§ 750.1-750.7 provide the exclusive authorization and procedure whereby the Secretary of the Navy or his designee may consider, ascertain, adjust, determine and settle claims for money damages of \$1,000 or less against the United States, accruing on and after January 1, 1945, for injury or loss of property or personal injury or death determined to have been caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(b) The provisions of the Federal Tort Claims Act and §§ 750.1-750.7 do not apply to:

(1) Any claim based upon an act or omission of an employee of the Govern-

ment, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid; or based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of the Navy or an employee of the Government, whether or not the discretion involved may be abused.

(2) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(3) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.

(4) Any claim for which a remedy is provided by the act of March 9, 1920 as amended (46 U. S. C. 741-752) or the act of March 3, 1925 as amended (46 U. S. C. 781-790) relating to claims or suits in admiralty against the United States.

(5) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of the Trading with the Enemy Act as amended (50 U. S. C. App. 1-39).

(6) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

(7) Any claim arising from the activities of the Panama Canal Company.

(8) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

(9) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(10) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(11) Any claim arising in a foreign country.

(12) Any claim arising from the activities of the Tennessee Valley Authority.

(c) Although not expressly excepted from the application of the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code, the following types of claims shall not be considered administratively under the provisions of §§ 750.1-750.7:

(1) Any claim for the personal injury or death of a member of the naval forces of the United States incurred in line of duty.

(2) Any claim for the personal injury or death of a civilian employee of the Navy to whom the Federal Employees' Compensation Act as amended (5 U. S. C. 751-793) is applicable.

(3) Any claim of military personnel or civilian employees of the Navy for damage to or loss, destruction, capture, or abandonment of personal property occurring incident to their service, which claim is cognizable under 10 U. S. C. 2732 and the applicable Navy Personnel Claims Regulations (Part 751 of this chapter).

§ 750.4 *Effect on prior legislation.*
(a) With respect to claims in the amount of \$1,000 or less, cognizable under the provisions governing administrative set-

tlement of federal tort claims under Title 28, United States Code, section 424 of the Federal Tort Claims Act (the only section of the original law not repealed by Public Law 773, 80th Cong.) repeals all provisions of law authorizing the Navy to consider, ascertain, adjust, or determine claims on account of damage to or loss of property or on account of personal injury or death, with respect to which causation by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is a jurisdictional fact.

(b) Section 424 of the Federal Tort Claims Act further provided that nothing contained therein should be deemed to repeal any provision of law authorizing the Navy to consider, ascertain, adjust, settle, determine, or pay any claim on account of damage to or loss of property, or on account of personal injury or death, in cases in which such damage, loss, injury, or death was not caused by any negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment, or any other claim not cognizable under the administrative claims provisions of Part 2 of the Federal Tort Claims Act, now revised and embodied in Title 28, United States Code.

§ 750.5 *Claims in excess of \$1,000.* The Navy does not have legal authorization to pay claims in excess of \$1,000, with the exception of admiralty claims, even though they are otherwise cognizable under the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code. The claimant's remedy in such cases is by civil action in the United States district court for the district where the claimant resides or wherein the act or omission complained of occurred, as set forth in the civil action provisions of 28 U. S. C. 1346 (b), and §§ 750.8-750.16.

§ 750.6 *Attorneys' fees.* (a) The Secretary of the Navy or his designee making an award pursuant to the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code and §§ 750.1-750.7 may, as a part of the award, determine and allow reasonable attorneys' fees which, if the amount awarded is \$500 or more, are not to exceed 10 per centum of the sum approved. Attorneys' fees so determined are to be paid to the attorney representing the claimant out of, but not in addition to, the amount of the award. The limitation of 10 per centum does not apply when the award is less than \$500.

(b) The authority to fix attorneys' fees as set forth in paragraph (a) of this section may be exercised only upon the written request of both the claimant and his attorney.

§ 750.7 *Statute of limitations.* Every claim against the United States for \$1,000 or less, to be cognizable under the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code, and §§ 750.1-750.7 must be presented in writing to the Navy within two years after the claim accrued or be forever barred.

SUIT AGAINST THE UNITED STATES

§ 750.8 *Statutory authority for action.* (a) Pursuant to, and subject to the limitations of, Part 3 of the Federal Tort Claims Act as amended (28 U. S. C. 1254, 1255, 1346, 1402, 2402, 2411, 2412, 2674), the United States district court for the district where the plaintiff resides or wherein the act or omission complained of occurred, including the District Court for the territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, sitting without a jury, has exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on or after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant for such damage, loss, injury, or death in accordance with the law of the place where the act or omission occurred.

(b) The jurisdiction conferred as set forth in paragraph (a) of this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under 28 U. S. C. 1346 (b).

§ 750.9 *Scope of civil action provisions of 28 U. S. C. of 1346 (b).* (a) The remedies provided by 28 U. S. C. 1346 (b) with respect to civil action against the United States are the exclusive remedies whereby action may be brought upon claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant for such damage, loss, injury, or death in accordance with the law of the place where the act or omission occurred.

(b) The types of claims listed in § 750.3 (b) (1)-(12) are expressly excepted from the application of 28 U. S. C. 1346 (b).

§ 750.10 *Extent of Government liability.* (a) Subject to the provisions of Title 28, United States Code, the United States is liable in respect of claims cognizable thereunder, in the same manner, and to the same extent, as a private individual under like circumstances, but is not liable for interest prior to judgment, or for punitive damages. If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred, provides, or has been construed to provide, for damages only punitive in nature, the United States is liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons, respectively, for whose benefit the action was brought, in lieu thereof.

(b) On all final judgments rendered against the United States in actions in-

stituted under 28 U. S. C. 1346 (b), interest is to be computed at the rate of 4 per centum per annum from the date of judgment up to, but not exceeding, 30 days after the date of approval of any appropriation act providing for payment of the judgment.

(c) Costs are to be allowed in all courts to the successful claimant but such costs are not to include attorneys' fees.

§ 750.11 *Compromise settlements.* The Attorney General, with the approval of the court, is authorized to arbitrate, compromise, or settle any claim cognizable under the civil action provisions of 28 U. S. C. 1346 (b), after the commencement of an action thereon. Any such award, compromise, or settlement made by the Attorney General is required to be paid by the Navy out of appropriations made therefor.

§ 750.12 *Effect of judgment.* The judgment in an action brought under Title 28 U. S. C. 1346 (b) constitutes a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the Government whose act or omission gave rise to the claim.

§ 750.13 *Attorneys' fees.* The court rendering a judgment for the plaintiff, or the Attorney General making an arbitration, compromise, or settlement, pursuant to 28 U. S. C. 1346 (b) or 2677, respectively, may as a part of the judgment or settlement, determine and allow reasonable attorneys' fees, which, if the recovery is \$500 or more, are not to exceed 20 per centum of the amount recovered, to be paid to the attorney representing the claimant out of, but not in addition to, the amount of the judgment or settlement recovered.

§ 750.14 *Action on claims previously presented administratively.* (a) No action can be instituted upon a claim against the United States which has been presented to the Navy pursuant to the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code, and §§ 750.1-750.7 unless the Navy has made final disposition of the claim. The claimant may, however, upon 15 days' written notice, withdraw the claim from consideration by the Navy and commence action thereon. No action on a claim so withdrawn from consideration by the Navy may be instituted for any sum in excess of the claim presented to the Navy, except where the increased amount is based on newly discovered evidence not reasonably discoverable at the time of presenting the claim to the Navy, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(b) The disposition of any claim made by the Attorney General or the Secretary of the Navy or his designee is not competent evidence of liability or amount of damages.

§ 750.15 *Statute of limitations.* An action against the United States pursuant to 28 U. S. C. 1346 (b), must be begun within two years after the claim accrued, or be forever barred. If a claim not exceeding \$1,000 has been presented in writing to the Navy within that period of time, suit thereon shall not be barred

until the expiration of a period of six months after either the date of withdrawal of such claim from the Navy or the date of mailing notice by the Navy of final disposition of the claim.

§ 750.16 Appeal. (a) The United States courts of appeals have jurisdiction of appeals from final decisions of the district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands in actions brought under 28 U. S. C. 1346 (b).

(b) The United States Court of Claims has jurisdiction to review by appeal final judgments in the district courts in civil actions based on tort claims brought under 28 U. S. C. 1346 (b), if the notice of appeal filed in the district court has affixed thereto the written consent on behalf of all the appellees that the appeal be taken to the Court of Claims. Appeals to the Court of Claims in such cases shall be taken within 3 months after the entry of the final judgment of the district court.

(c) Cases in the courts of appeals may be reviewed by the Supreme Court of the United States by writ of certiorari, by appeal, or by certification of questions of law, as provided in 28 U. S. C. 1254. Cases in the Court of Claims may be reviewed by the Supreme Court by writ of certiorari or by certification of questions of law, as provided in 28 U. S. C. 1255.

SUBPART B—OTHER ADMINISTRATIVE CLAIMS

AUTHORITY: §§ 750.17 to 750.28 issued under sec. 6011, 70A Stat. 375; 10 U. S. C. 6011. Interpret or apply secs. 2733, 7625, 70A Stat. 153, 473; 10 U. S. C. 2733, 7625.

MILITARY CLAIMS ACT (10 U. S. C. 2733)

§ 750.17 Definitions. As used in §§ 750.17 to 750.26:

(a) The word "claim" refers to any demand for payment submitted by any individual, partnership, association, corporation, or political entity, including countries, states, territories, and political subdivisions thereof, but excluding the Federal Government of the United States and its instrumentalities.

(b) The words "military personnel or civilian employees of the Navy" include all military personnel of the Navy, prisoners of war and interned enemy aliens engaged by the Navy in labor for pay, and volunteer workers and others serving as employees of the Navy whether with or without compensation.

(c) The words "Navy" or "naval" include the Marine Corps, and the Coast Guard while the Coast Guard is serving as a part of the Navy, unless the context indicates a contrary intention.

(d) The word "military" includes "naval."

§ 750.18 Statutory authority. 10 U. S. C. 2733 is commonly known as the Military Claims Act. Pursuant to, and subject to the limitations of, this authority, the Secretary of the Navy and, subject to appeal to the Secretary of the Navy, such other officer or officers as he may designate for such purposes and under such regulations as he may prescribe, are authorized to consider, ascertain, adjust, determine, settle, and pay in an

amount not in excess of \$1,000, where accepted by the claimant in full satisfaction and final settlement, any claim against the United States when such claim is substantiated in such manner as the Secretary of the Navy may by regulation prescribe, for damage to or loss or destruction of property, real or personal, or for personal injury or death, caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or otherwise incident to noncombat activities of the Navy, including claims for damage to or loss or destruction, by criminal acts, of registered or insured mail while in the possession of the military authorities, claims for damage to or loss or destruction of personal property bailed to the Government and claims for damages to real property incident to the use and occupancy thereof, whether under a lease, express or implied, or otherwise.

§ 750.19 Scope of 10 U. S. C. 2733. (a) Subject to the exceptions set forth in paragraph (b) of this section, claims not in excess of \$1,000 for damage to or loss or destruction of real or personal property or for personal injury or death, caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or otherwise incident to noncombat activities of the Navy, including claims for damages to or loss or destruction, by criminal acts, of registered or insured mail while in the possession of the military authorities, claims for damage to or loss or destruction of personal property bailed to the Government and claims for damage to real property incident to the use and occupancy thereof, whether under a lease, express or implied, or otherwise, are payable by the Secretary of the Navy or his designees under 10 U. S. C. 2733 and §§ 750.17-750.26.

(b) The provisions of 10 U. S. C. 2733 and §§ 750.17-750.26 do not apply to:

(1) Any claim for damage, loss, destruction, injury, or death which was proximately caused, in whole or in part, by any negligence or wrongful act on the part of the claimant, his agent or his employee.

(2) Any claim for damage, loss, destruction, injury, or death resulting from action by the enemy, or resulting directly or indirectly from any act by armed forces engaged in combat.

(3) Any claim for personal injury or death incurred on or before March 29, 1956, other than for reasonable medical, hospital, and burial expenses actually incurred as a result thereof.

(4) Any claim for reimbursement for medical or hospital services furnished at the expense of the United States or, in the case of burial, for such portion of the expense thereof as may be otherwise paid by the United States.

(5) Any claim for personal injury or death of military personnel or civilian employees of the Navy if such injury or death occurs incident to their service.

(6) Any claim of military personnel or civilian employees of the Navy for damage to or loss, destruction, capture, or abandonment of personal property occurring incident to their service, which

claim is cognizable under 10 U. S. C. 2732 and the applicable Navy Personnel Claims Regulations (Part 751 of this chapter).

(7) Any claim arising on or after January 1, 1945, the cause of which has been determined to be the negligent or wrongful act or omission of an employee of the Government (as defined in § 750.1) while acting within the scope of his office or employment, and which is in all other respects within the cognizance of the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code, and §§ 750.1-750.7.

(8) Any claim arising in a foreign country or possession thereof which is cognizable under the provisions of the Foreign Claims Act (10 U. S. C. 2734) and regulations issued pursuant thereto.

(9) Any claim cognizable under 10 U. S. C. 7623 or 46 U. S. C. 797 relating to admiralty claims or claims for damages caused by naval vessels.

(10) Any claim for damage to or loss or destruction of property founded in contract, express or implied, with the exception of claims arising from the bailment of personal property to the Government and from the use and occupancy of real property as set forth in §§ 750.22 and 750.23.

(11) Any claim for the rent of real or personal property.

(12) Any claims involving the infringement of patents.

§ 750.20 Claims in excess of \$1,000. Claims in excess of \$1,000, if otherwise within the scope of the Military Claims Act (10 U. S. C. 2733), may be reported by the Secretary of the Navy to Congress for its consideration. Such claims, if found to be meritorious, will ordinarily be reported to Congress in a deficiency appropriation bill, obviating the claimant's initiation of private relief legislation.

§ 750.21 Claims "otherwise incident to noncombat activities of the Navy Department or of the Navy." Claims for damage to or loss or destruction of property, real or personal, or for personal injury or death, although not shown to have been caused by any particular act or omission of military personnel or civilian employees of the Navy while acting within the scope of their employment, are payable under the provisions of the Military Claims Act (10 U. S. C. 2733) if otherwise incident to noncombat activities of the Navy. Claims within this category are those arising out of authorized activities which are peculiarly military activities having little parallel in civilian pursuits, and out of situations in which the Government has historically assumed a broad liability, such as claims for damage or injury arising from, and which are the natural or probable results or incidents of: maneuvers and special exercises; practice firing of heavy guns; practice bombing; naval exhibitions; operation of guided missiles, aircraft and of antiaircraft equipment; use of barrage balloons; use of instrumentalities having latent mechanical defects not traceable to negligent acts or omissions; explosions of ammunition; movement of combat vehicles or other vehi-

cles, designed especially for military use; and the use and occupancy of real estate.

§ 750.22 Bailed personal property. (a) Claims for damage to or loss or destruction of personal property loaned, rented, or otherwise bailed to the Government under an agreement, expressed or implied, are payable under the provisions of the Military Claims Act (10 U. S. C. 2733) even though legally enforceable against the Government as contract claims, unless by express agreement the bailor has assumed the risk of damage, loss or destruction. Subject to the exceptions set forth in § 750.19 (b), the cause of loss is immaterial.

(b) Claims of prisoners of war and of interned enemy aliens for damage to or loss or destruction of personal property in the custody of the Government are payable only when the proximate cause of the damage, loss, or destruction is shown to be the tortious act or omission of military personnel or civilian employees of the Navy. The authority to pay claims of this nature is also subject to the exceptions set forth in § 750.19 (b).

(c) Claims in the category covered by this section may, if deemed in the best interests of the Government, be processed as contract claims through the General Accounting Office.

§ 750.23 Use and occupancy of real property. (a) Subject to the exceptions set forth in § 750.19 (b), claims for damage to real property incident to the use and occupancy thereof by the Government, whether under a lease, express or implied, or otherwise, are payable under the provisions of the Military Claims Act even though legally enforceable against the Government as contract claims.

(b) Claims in the category covered by this section may, if deemed in the best interests of the Government, be processed as contract claims through the General Accounting Office.

§ 750.24 Damage, loss, or destruction of mail. (a) Claims for damage to or loss or destruction, by criminal acts, of registered or insured mail while in the possession of the military authorities are payable under the Military Claims Act. This provision of the act is in the nature of an exception to the general requirement that the damage, loss, or destruction of personal property, in order to be compensable thereunder, be caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or be otherwise incident to noncombat activities of the Navy. In effect, this provision makes it possible for the Navy to relieve the Post Office Department of its obligation as an insurer with respect to registered and insured mail relinquished into the possession of the Navy for transportation or delivery to the addressee. For this reason, any award to a claimant for the damage to or loss or destruction of registered or insured mail while in the possession of the military authorities, where the damage, loss, or destruction results from a criminal act, shall be limited in amount to the indemnity to which the claimant would be entitled from the Post Office Department in ac-

cordance with the registry or insurance fee paid, and shall be in all other respects subject to the conditions of and limitations upon indemnity set forth in the Postal Manual, United States Post Office Department (39 CFR), as applicable to the payment of indemnity by the Post Office Department where the damage, loss, or destruction occurs while the mail matter is in the possession of that department.

(b) Claims for damage to or loss or destruction of mail matter of any class, whether or not such mail is insured or registered, are payable, upon proper substantiation, if shown to have been caused by military personnel or civilian employees of the Navy while acting within the scope of their employment, or if otherwise incident to noncombat activities of the Navy, or if within the provisions of § 750.22 with respect to bailed personal property. However, failure to insure or register mail containing money or articles of substantial value may constitute negligence on the part of the claimant which will preclude recovery. In claims for damage, loss, or destruction of mail matter not resulting from criminal acts, the amount of the award is not limited to the amount of coverage provided by the insurance or registry fee paid to the Post Office Department, but is governed by the general provisions of § 750.29 with respect to measure of damages. If claimed, additional damages may be recovered in mail cases in the amount of postage and any registration or insurance or other special fees prepaid, except that no such postage or fees shall be paid if actual delivery of the mail matter is made to the correct addressee.

(c) In addition to the exceptions set forth in § 750.19 (b), the provisions of the Military Claims Act do not apply to:

(1) Any claim for damage, loss, or destruction of mail matter occurring prior to delivery by the Post Office Department to authorized military personnel or civilian employees of the Navy (e. g., designated Navy mail clerks and assistant Navy mail clerks, mail orderlies, and postal officers).

(2) Any claim for damage, loss, or destruction of mail matter occurring due to the fault of or while in the hands of bonded personnel.

(3) Any claim for damage, loss, or destruction of mail matter arising after resumption of possession by the Post Office Department (e. g., for the purpose of forwarding to the addressee at a different address) and prior to redelivery to authorized military personnel or civilian employees of the Navy charged with transportation or distribution to the addressee.

§ 750.25 Claims arising in foreign countries. (a) There are no geographical limitations upon the scope of application of the Military Claims Act and §§ 750.17-750.26. The Foreign Claims Act (10 U. S. C. 2734) and regulations issued pursuant thereto, however, have preemptive application to claims for damage to or loss or destruction of real or personal property, and for personal injury or death, caused by military forces or individual members thereof, whether

military personnel or civilian employees, or otherwise incident to noncombat activities of such forces, in a foreign country, to public property located therein, or to the privately owned property or to the persons or inhabitants of a foreign country. Any claim which arises in a foreign country, therefore, and which is within the scope of the Foreign Claims Act, is precluded from consideration under the Military Claims Act. Any claim which arises in a foreign country and is for any reason not cognizable under the Foreign Claims Act and the regulations issued thereunder, however, may be considered and paid under the Military Claims Act and §§ 750.17-750.26 provided it is in all respects within the scope thereof.

(b) In addition to the exceptions set forth in § 750.19 (b), the provisions of the Military Claims Act do not apply to any claim arising in a foreign country, of an inhabitant of a foreign country who is a national of a country at war with the United States or of any ally of such an enemy country, unless it be determined that the claimant is friendly to the United States.

(c) Claims arising in foreign countries may, in proper cases, be cognizable under 10 U. S. C. 7625 and §§ 750.27 and 750.28. They are expressly excluded, however, from consideration under the provisions governing the administrative settlement of Federal tort claims under Title 28, United States Code, and from the application of the civil action provisions of 28 U. S. C. 1346 (b).

§ 750.26 Statute of limitations. No claim may be settled under the Military Claims Act unless it is presented in writing within two years after the occurrence of the accident or incident out of which it arises. However, if such accident or incident occurs in time of war or armed conflict, or if war or armed conflict intervenes within two years after its occurrence, any claim may, on good cause shown, be presented within two years after the war or armed conflict is terminated. For the purposes of the Military Claims Act, the dates of the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by determination of the President. The provisions of this section do not revive claims in regard to which the period of limitation had expired prior to March 29, 1956 under the law then in effect.

10 U. S. C. 7625

§ 750.27 Statutory authority. Pursuant to and subject to the limitations of 10 U. S. C. 7625, the Secretary of the Navy is authorized to consider, ascertain, adjust, determine, and pay the amounts due in all claims for damages (other than such as are occasioned by vessels of the Navy) to and loss of privately owned property, where the amount of the claim does not exceed \$500, for which damage or loss members of the naval service are found to be responsible.

§ 750.28 Scope of 10 U. S. C. 7625. (a) Subject to the exceptions and limitations set forth in paragraphs (b) and (c) of this section, 10 U. S. C. 7625 provides authority whereby the Secretary of

the Navy may, in certain restricted circumstances, consider, ascertain, adjust, determine, and pay claims not in excess of \$500 for damage to and loss of privately owned property, for which damage or loss a member of the naval service is found to be responsible.

(b) The provisions of 10 U. S. C. 7625 and §§ 750.27-750.28 do not apply to:

- (1) Any claim in excess of \$500.
- (2) Any claim for personal injury or death.
- (3) Any claim for property damage or loss occasioned by vessels of the Navy.
- (4) Any claim for property damage or loss for which civilian employees of the naval service are found to be responsible.

(5) Any claim for property damage or loss caused through the negligence of members of the naval service while acting within the scope of their employment (4 Comp. Gen. 876 (1925), 10 Comp. Gen. 229 (1930), 11 Comp. Gen. 502 (1932)).

(c) Favorable consideration under 10 U. S. C. 7625 of claims arising from acts or omissions of members of the naval service, acting outside the scope of their employment, will ordinarily be restricted to claims arising from acts or omissions involving the use of Navy property.

SUBPART C—GENERAL PROVISIONS; INVESTIGATION AND PROCEDURE

AUTHORITY: §§ 750.29 to 750.47 issued under sec. 6011, 70A Stat. 375; 10 U. S. C. 6011. Interpret or apply secs. 2671-2680, 62 Stat. 982-984, as amended, secs. 2733, 7625, 70A Stat. 153, 473; 28 U. S. C. 2671-2680, 10 U. S. C. 2733, 7625.

§ 750.29 *Measure of damages.* (a) In claims for damage to or loss or destruction of property cognizable under the provisions governing the administrative settlement of Federal tort claims under Title 28, United States Code, or the civil action provisions of 28 U. S. C. 1346 (b), the measure of damages is determined by the law of the place where the act or omission occurred. In cases cognizable under the Military Claims Act (10 U. S. C. 2733) and 10 U. S. C. 7625, however, the measure of damages shall be as follows:

(1) If the property has been or can be economically repaired, the measure of damages shall be the actual or estimated net cost of the repairs necessary to restore the property to substantially the condition which existed immediately prior to the incident. Damages so determined shall not, however, exceed the value of the property immediately prior to the incident less the value thereof immediately after the incident. To determine the actual or estimated net cost of repairs, the value of any salvaged parts or materials and the amount of any net appreciation in value effected through the repair shall be deducted from the actual or estimated gross cost of repairs, and the amount of any net depreciation in the value of the property shall be added to such gross cost of repairs, provided such adjustments are sufficiently substantial in amount to warrant consideration. All estimates of the cost of repairs shall be based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by one

or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(2) If the property cannot be economically repaired, the measure of damages shall be the value of the property immediately prior to the incident less the value thereof immediately after the incident. All estimates of value shall be made, if possible, by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(3) Loss of use of damaged property which is economically repairable may, if claimed, be included as an additional element of damage to the extent of the reasonable expense actually incurred for appropriate substitute property, but only for such period as is reasonably necessary for repairs, and provided that idle substitute property of the claimant was not employed. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but is not obtained and used by the claimant, loss of use is normally not payable.

(b) In claims for personal injury or death cognizable under the provisions governing the administrative settlement of Federal tort claims under Title 28, United States Code, or the civil action provisions of 28 U. S. C. 1346 (b), the measure of damages is determined by the law of the place where the act or omission occurred. In claims for personal injury or death cognizable under the Military Claims Act accruing on or before March 29, 1956, the measure of damages is restricted to reasonably necessary medical, hospital, and burial expenses, reasonable in amount and actually incurred, including, but not limited to, the following:

(1) Medical expenses: Transportation, by ambulance or otherwise, from the scene of the incident to a physician or hospital, and between the residence of the person injured and physicians and hospitals, for examination or treatment; services performed by physicians, surgeons, dentists, laboratory technicians, anesthetists, masseurs, and registered and practical nurses; physiotherapy; X-ray examination and treatment; laboratory tests; and medical supplies.

(2) Hospital expenses: Use of emergency and surgical rooms, room and board; laboratory fees; anesthetics, medicines, and dressings; and payments to blood donors.

(3) Burial expenses: Undertaker's services; casket; transportation; cemetery lot; services of a minister, priest, or rabbi; and interment or cremation.

(c) In claims for personal injury or death cognizable under the Military Claims Act accruing after March 29, 1956, the measure of damage may include reasonable medical, hospital, and burial expenses, loss of earnings and services, diminution of earning capacity, pain and suffering, permanent injury and death. In computing damages in cases of personal injury or death, local

standards will be taken into consideration as a guide. In case of death, only one claim arises; the amount approved therefore will, to the extent found practicable or feasible, be apportioned among the beneficiaries and in the proportions, prescribed by law or custom of the place in which the accident or incident resulting in death occurs.

(d) In claims cognizable under the Military Claims Act (10 U. S. C. 2733) or 10 U. S. C. 7625, payment shall not be made for the following elements of damage: Interest, cost of preparation of claims; attorneys' fees; or inconvenience and similar items.

(e) If a claimant under the Military Claims Act (10 U. S. C. 2733) or 10 U. S. C. 7625 has elected to proceed against a third party as a joint tort-feasor, any amount paid by such third party for damage which might otherwise be properly included in the claim against the Government shall be deducted from any award made by the Government to the claimant.

§ 750.30 *Who constitutes a proper claimant.* (a) A claim for damage to or loss or destruction of property shall be presented by the owner of the property or his duly authorized agent or legal representative. The word "owner," as used herein, includes a bailee, lessee, mortgagor, and conditional vendee, but does not include a mortgagee, conditional vendor, or other person having title for purposes of security only. If the claim is filed by an agent or legal representative of the owner of the property, it shall show the title or capacity of the person signing and shall be accompanied by evidence of the appointment of such person as agent, executor, administrator, guardian, or other fiduciary.

(b) A claim on account of personal injury shall be presented by the person injured or his duly authorized agent, or, in the case of death, by the legal representative of the person deceased. A claim for medical, hospital, and burial expenses of a person deceased may, if no legal representative has been appointed, be presented by any person who, by reason of family relationship, has in fact incurred the expenses for which claim is made.

(c) Settlement of claims involving subrogation by reason of insurance or operation of law when the combined claims of both insured and insurer do not exceed \$1,000, may be made separately with the subrogor or the subrogee for their respective interests when separate claims are submitted, or jointly with both when one claim has been filed in the names of both and signed by both, but only with the subrogee when the subrogor has received full compensation from him in cases of damage, loss, destruction, injury or death. Appropriate documentary evidence should be furnished by the subrogee in support of a subrogated claim.

(d) All transfers and assignments made of any claim upon the United States, or of any part or share thereof or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or

of any part or share thereof, are absolutely null and void unless they are made after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. (R. S. 3477, as amended, 31 U. S. C. 203.) This statutory provision does not apply to the assignment of a claim by operation of law, as in the case of a receiver or trustee in bankruptcy appointed for an individual, firm, or corporation, or the case of an administrator or executor of the estate of a person deceased, or an insurer subrogated to the rights of the insured.

§ 750.31 The submission of a claim.

(a) A claim shall be submitted by presenting in triplicate a written statement setting forth the amount of the claim and, as far as possible, the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form No. 95, shall be used whenever practicable. The claim and all other papers requiring signature by the claimant shall be signed by the claimant personally or by his duly authorized agent. The signature of the claimant or his agent shall be identical throughout. When more claims than one arise from a single incident, each such claim shall be filed separately and individually.

(b) The claim shall be submitted by the claimant to the commanding officer of the naval activity involved, if known; otherwise, it shall be submitted to the commanding officer of any naval activity, preferably the one within which or nearest to which the incident occurred, or to the Judge Advocate General of the Navy, Washington 25, D. C.

§ 750.32 The contents of a claim. (a) The claimant shall include the following information in his claim:

(1) The full name and complete address of the claimant.

(2) The amount claimed for property damage, loss, or destruction, and the amount claimed on account of personal injury or death.

(3) The date, time, and place of occurrence of the incident giving rise to the claim.

(4) The persons, vehicles, and other property involved.

(5) The identity of the Government department, agency, or activity involved.

(6) A detailed description of the occurrence of the incident and the facts and circumstances attending it.

(7) The nature and extent of the resulting damage, loss, destruction, or injury.

(8) The names and addresses of any witnesses to the occurrence of the incident.

(9) An agreement by the claimant to accept the amount claimed in full satisfaction and final settlement of the claim stated.

(b) The amount of the claim shall be substantiated by competent evidence, as follows:

(1) In support of claims for damage to real or personal property which has been or can be economically repaired, the claimant shall submit, in triplicate,

an itemized, signed statement or estimate of the cost of repairs. If the property is not economically repairable, or if it is lost or destroyed, the value thereof, both before and after the incident, shall be stated. If damage to realty is not economically repairable, the value, both before and after the incident, of the land damaged, or of the improvement or fixture if it can be readily and fairly valued apart from the land, shall be stated. In support of claims for damage to crops, the statement shall indicate the number of acres or other unit of measure of the crops damaged, the normal yield per unit, the gross income which would have been realized from such normal yield, and an estimate of the further costs of cultivation, harvesting, and marketing. If the crop is one which need not be planted each year, the diminution in value of the land beyond the damage to the current year's crop shall also be stated. All such statements or estimates shall, if possible, be made by competent, disinterested witnesses, preferably reputable dealers or officials familiar with the type of property damaged or lost. If payment for repairs has been made, itemized receipts evidencing payment shall be included. All itemized statements or receipted bills shall be certified by the creditor to be just and correct. A claimant for damage to or loss or destruction of registered or insured mail shall, in addition, submit the registration or insurance receipt showing the amount of the fees and postage paid, or in the event the receipt is not available, a signed statement by the issuing post office containing the essential information from the official records.

(2) In support of claims for personal injury or death, the claimant shall submit, in triplicate, a written report by the attending physician showing the nature and extent of the injury and the treatment, the period of hospitalization or incapacitation, the degree of permanent disability, if any, and the prognosis. Itemized statements or receipted bills, certified by the creditor to be just and correct, shall be included to cover medical, hospital, or burial expenses actually incurred.

(c) The claimant may, if he desires, file with his claim a brief setting forth the law and arguments in support of his position.

§ 750.33 Investigation; general.

Every service-connected incident which may result in claims against or in favor of the Government shall be promptly and thoroughly investigated by trained personnel. The investigation shall be closely supervised to insure the preparation of an investigative report providing a sufficient basis for the prompt and just disposition of resulting claims against and in favor of the Government, and for all other official action required by the circumstances of the case. The procedures set forth in §§ 750.34-750.45 shall be followed with respect to the appointment of investigating officers, the conduct of the investigation, the preparation of the investigative report, and the processing of claims cognizable under the regulations in this part.

§ 750.34 Investigation; when required. (a) Investigation of service-connected incidents shall be made in any of the following circumstances:

(1) When private property is damaged, lost, or destroyed.

(2) When Government property is damaged, lost, or destroyed under circumstances which indicate the existence of a claim in favor of the Government.

(3) When injury or death results to any civilian other than an employee of the Government acting in the performance of his duty and covered by the Federal Employees' Compensation Act.

(4) When a claim is filed within the provisions of the regulations in this part, though irrespective of amount.

(5) When specifically directed by competent authority.

(b) Incidents falling within any of the categories listed in paragraph (a) of this section shall be investigated and reported upon without delay, even though no claim has been filed, and even though there may be no existing law or regulation under which any claim arising therefrom might be paid.

(c) Upon receipt by the Judge Advocate General of notice from the Department of Justice, or from any other source, that an action involving the Navy has been instituted against the United States under the civil action provisions of 28 U. S. C. 1346 (b), a request shall be made upon the Commandant of the appropriate naval district for an investigative report of the incident giving rise to the action, if a complete report of the incident has not already been received. This request shall be forwarded immediately to the appropriate naval activity for prompt compliance in order that the preparation of the Government's defense may not be delayed. The commencement under the civil action provisions of Title 28 U. S. C. 1346 (b), of any action against the United States, involving the Navy, which comes to the attention of any officer in connection with his official duties, shall be reported immediately to the Commandant of the cognizant naval district, to the attention of the District Legal Officer, who shall initiate any necessary administrative action and shall give further prompt notification to the Judge Advocate General. The commencement of any legal action against any employee of the Navy as a result of an act or omission committed within the scope of his employment, which comes to the attention of any officer in connection with his official duties, whether or not the United States has been made a party to such legal action, shall be reported in the same manner.

(d) The regulations in this part in no way modify the requirements of Navy Regulations; the Manual for Courts-Martial, United States, 1951; and other provisions of the 1955 Naval Supplement to the Manual for Courts-Martial, United States, 1951 and the making of an investigation and report hereunder does not constitute or excuse compliance with any provision of Navy Regulations; the Manual for Courts-Martial, United States, 1951; and other provisions of the 1955 Naval Supplement to the Manual for Courts-Martial, United States, 1951.

§ 750.35 Investigation; responsibility for. (a) Immediate responsibility for the investigation of an incident in accordance with the regulations in this part lies with the commanding officer or officer in charge of the local naval activity which is most directly concerned, normally the commanding officer or officer in charge of the personnel involved or of the activity in which the incident occurred. Where two or more activities are involved, the senior of the commanding officers or officers in charge concerned shall decide who of them shall have immediate responsibility for the investigation.

(b) When an accident or incident occurs at a place where the naval service does not have an installation or a unit conveniently located for conducting an investigation, the commanding officer or officer in charge having immediate responsibility for making such investigation may request assistance from the commanding officer or officer in charge of any other organization of the Department of Defense. Such assistance may take the form of a complete investigation of the accident or incident, or it may cover only part of the investigation. Likewise, in the event that under similar circumstances the commanding officer or officer in charge of any other organization of the Department of Defense requests such assistance from the commanding officer or officer in charge of any naval installation or unit, the latter will comply with the request. If a complete investigation is requested, the report will be made in accordance with the regulations of the requested service. These investigations will normally be conducted without reimbursement for per diem, mileage or other expenses incurred by the investigating installation or unit.

(c) The driver of any Government motor vehicle involved in an accident of any sort shall be responsible for making an immediate report on the Operator's Report of Motor Vehicle Accident, Standard Form No. 91. This driver's report shall be made even though the driver of the other vehicle or any other person involved states that no claim will be filed, or even though the only vehicles involved are Government-owned. An accident shall be reported by the driver regardless of who was injured, or what property was damaged, or to what extent, or where the accident occurred, or who was responsible. The driver's report shall be referred to the investigating officer, who shall be responsible for examining it for completeness and accuracy, and who shall file it for future reference or for attachment to any subsequent investigative report of the accident.

§ 750.36 The investigating officer. (a) Every investigation required by the regulations in this part shall be conducted by an investigating officer. The commanding officer or officer in charge of each naval activity shall designate a qualified individual under his command, preferably one with legal training and experienced in the conduct of investigations, as the investigating officer for the activity. Whenever necessary, in the discretion of the commanding officer or

officer in charge, additional or assistant investigating officers may be appointed, each with all and the same powers as the investigating officer, except that all assistant investigating officers shall be under the general supervision of the investigating officer. To insure prompt investigation of every incident while witnesses are available and before damage has been repaired, the duties of an officer in his capacity as an investigating officer shall ordinarily have priority over any other assignments he may have.

§ 750.37 Duties of the investigating officer. It shall be the duty of the investigating officer, in making an investigation pursuant to the regulations in this part:

(1) To consider all information and evidence obtained as a result of any previous investigation or inquiry into any aspect of the incident.

(2) To conduct further investigation of the matter in a fair and impartial manner, covering all phases of the incident and giving consideration to its bearing on possible claims against or in favor of the Government and on other interests of the service, to the end that a comprehensive, accurate, and unbiased factual report of the incident may be made available to higher authority for such action as is required by the circumstances of the case.

(3) To secure and consider signed statements from all competent witnesses on facts pertinent to the incident. Witnesses should be interviewed by the investigating officer at the earliest opportunity and he should obtain from them full statements. Statements from principal witnesses should be reduced to writing and their signatures obtained thereon if at all possible. The interests of the United States may be seriously prejudiced if the investigating officer fails to obtain such statements before witnesses lose their clear recollection or can be confused by questioning by persons with adverse interests.

(4) To inspect the property damage and to interview injured persons or their representatives personally, and if such personal inspection and interview is not conducted, to state the reason therefor.

(5) To ascertain the nature, extent, and amount of damage and to obtain all pertinent repair bills or estimates, medical, hospital, and associated bills as are necessary to the proper adjudication of a claim against or in favor of the Government which may arise from the incident. For proper method of computing the amount of damages, see § 750.29. Claims for loss of earnings and diminution of earning capacity arising under the Federal Tort Claims Act, or the Military Claims Act after March 29, 1956, require submission by the claimant of a statement by his employer executed before a notary public, or where the claimant is in business for himself a certified copy of company records, showing claimant's age, occupation, wage or salary, and time lost from work as a result of the incident. Where such statements or records are not available, a sworn statement by the claimant will be obtained. Claims for loss of earnings, diminution of earning capacity, medical and hospital

expenses, anticipated medical expense, pain and suffering, physical disfigurement, and temporary or permanent injury arising under the Federal Tort Claims Act or the Military Claims Act require submission by the claimant of a written statement by the attending physician setting forth the nature and extent of the injury and treatment, the duration and extent of the disability involved, the prognosis, and period of hospitalization or incapacity.

(6) In all cases in which a suit against the United States is likely or is pending, and in all other cases in which it appears pertinent to determine liability, to obtain from the proper maintenance office the latest report of material inspection of the Navy aircraft or motor vehicle that was conducted prior to the accident.

(7) To secure from qualified persons of the activity concerned, or of another appropriate activity, statements concerning the extent of damage or injury and the reasonableness of the damages claimed. The investigating officer, if the injured person does not object, should have a physical examination made of the injured person at a military installation, to the extent of the adequacy of the personnel and facilities of such installation, when such examination is considered necessary in connection with a claim incident to such injuries, provided that no expense for services or supplies from other federal agencies or civilian agencies is incurred with such examination. A copy of the report of such examination obtained from the medical installation will be included in the report of investigation or, if made subsequent to the forwarding of the latter report, will be forwarded to the same command as the report of investigation.

(8) To reduce to writing and incorporate into a unified investigative report, prepared in triplicate, all pertinent testimony, exhibits, and any other evidence taken or considered. (See, however, the exception contained in § 750.38 (b).)

(9) To furnish the proper claim forms to any person who inquires concerning the procedure for making claim against the Government as a result of a service-connected incident, and to advise such person where the claim should be filed and what substantiating evidence should accompany the claim.

(10) To submit the complete investigative report to his commanding officer or officer in charge as promptly as the circumstances permit; and in the case of an incident involving any personal injury or property damage estimated to be in excess of \$1,000, to submit immediately a preliminary report, containing such information as is at that time available, to his commanding officer for forwarding to reach the Judge Advocate General within twenty days of the occurrence of the incident under investigation. In a case where not all of the required information is immediately available, as in an accident resulting in personal injuries requiring extended periods of hospitalization or medical care, the investigative report shall be submitted promptly, containing all available information at the time of submission and shall be completed by means of a sup-

plementary report or reports submitted as soon as the previously omitted information becomes available.

§ 750.38 Contents of the investigative report. A written report of investigation will be made in each case, using standard forms whenever appropriate forms are available.

(a) Except in cases falling within the provisions of paragraph (b) of this section, the report shall be complete in every significant detail and will include particularly such of the following information as is pertinent:

(1) Date, time, and exact place the accident or incident occurred, specifying the highway, street, road, or intersection, including the streets between which or the number of the block where the accident or incident occurred, or the number of miles and the direction from the nearest town.

(2) A concise but complete statement of the circumstances of the accident or incident. Reference should be made to pertinent physical facts observed and to any material statements, admissions, or declarations against interest by any person involved.

(3) A statement whether a claim has been or, if known, will be filed and, if so, the name and address of the claimant.

(4) A statement whether the claimant is the sole owner of the damaged property and, if not, the name and address of the owner, or part owners, and the basis of the claimant's alleged right to file the claim.

(5) Names, service numbers, grades, organizations and addresses of military personnel and civilian employees involved as participants or witnesses.

(6) Names and addresses of witnesses.

(7) A statement whether military personnel and civilian employees were acting within the scope of their employment and the basis for such determination.

(8) Accurate description of Government property involved, and nature and amount of damage, if any. If Government property was not damaged, that fact should be stated.

(9) Accurate description of all privately owned property involved, nature and amount of damage, if any, and the names and addresses of the owners thereof.

(10) Names, addresses, and ages of all civilians or military personnel injured or killed. Information as to the nature and extent of injuries, degree of permanent disability, prognosis, period of hospitalization, name and address of attending physician and hospital, and amount of medical, hospital, and burial expenses actually incurred, occupation, and wage or salary of civilians injured or killed. Names, addresses, ages, relationship, and extent of dependency of survivors of any such person killed or fatally injured should be stated.

(11) If straying animals are involved, a statement whether the jurisdiction has "open range law" and, if so, reference to such statute.

(12) A statement whether any person involved violated any State or Federal statute, local ordinance, or installation regulations and, if so, in what respect.

The statute, ordinance, or regulation should be set out in full.

(13) A statement whether a police investigation was made. A copy of the police report of investigation will be included if available.

(14) A statement whether any arrests were made or charges preferred, and the result of any trial in civil or military courts.

(15) The comments and recommendations of the investigating officer as to the existence of liability and as to the amount of the damage, loss or destruction, or the amount payable on account of personal injury or death.

(16) As many exhibits or enclosures as are pertinent, and as may appear necessary or useful in the circumstances of each case, shall be obtained during the course of the investigation and shall be attached to the investigative report, forming a part thereof. The enclosures shall be numbered consecutively and shall be listed numerically in the investigative report in accordance with standard Navy correspondence procedure.

(b) In lieu of the formal investigation contemplated by § 750.37 and the detailed report described in paragraph (a) of the instant section, a more limited investigation and report may be made when the following circumstances exist:

(1) A claim has been presented for an amount of \$100.00 or less.

(2) The claim is cognizable under the Federal Tort Claims Act (§§ 750.1-750.7) or the Military Claims Act (§§ 750.16-750.26).

(3) The amount payable on the claim has been agreed upon. This limited report will take the form of a certification and should provide substantially as follows:

CERTIFICATE

I certify that I have investigated the accident (incident), that the facts fully substantiate the claim, and that I have taken the following action:

I further find that the amount claimed represents the claimant's loss and recommend payment under the provisions of sections 1-7 NGCR [Navy General Claims Regulations; §§ 750.1-750.7] (sections 17-26 [§§ 750.17-750.26]).

Encls X Std Form 91*

----- Police Report
----- Paid bill or estimate
----- Other

Approved for payment

(Investigating officer)

(Commanding officer)

(Authorized adjudicating officer)

In the space provided for noting the action taken by the investigating officer, he should describe very briefly the limited investigation upon which his recommendation is based, for example, information (estimates, etc.) received by telephone from -----; interviewed Government driver (other driver, witnesses, etc.); inspected damaged property; violation of local law; etc.

*Must be included in all cases involving motor vehicle accidents.

§ 750.39 Action by the commanding officer or officer in charge. The investigative report will be reviewed and, if necessary, returned to the investigating officer for the correction of any omissions noted. If there is a legal officer available, the commanding officer or officer in charge should ordinarily use his services in reviewing and, if desirable, endorsing the report. If the report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. In cases in which the certificate report authorized by § 750.38 (b) is used, the commanding officer or officer in charge may indicate his approval of the certificate report by signing this report in the space provided thereon. One copy of the report shall be retained in the file of the local activity and shall be made available to safety officers for use in accident prevention and to superior commands upon request. The original and one copy of the report, together with all three copies of any claim filed, shall be forwarded by means of the aforementioned endorsement, without regard to chain of command, to the Commandant of the naval district in which the incident occurs, attention District Legal Officer. If the incident arises in Guam, the report and claims shall be forwarded to Commander, Naval Forces, Marianas, attention Staff Legal Officer. In other cases where the incidents occur outside the geographical limits of any naval district, the commanding officer or officer in charge shall promptly forward such reports to the Judge Advocate General.

§ 750.40 Action by the district or staff legal officer. (a) The district or staff legal officer may, in his discretion, return the investigative report for such additional investigation and information as may be considered necessary. When satisfied with the report, he shall endorse the investigative report with his recommendations as to whether any claim or claims should be paid, and in what amount, stating the legal basis for his recommendations.

(b) The commandant of the naval district (or, with respect to cases arising in Guam, Commander, Naval Forces, Marianas) or the district or staff legal officer shall approve or disapprove the claims within his adjudicating authority (see § 750.41) as the law and the facts may warrant. In exceptional and unusual cases, even though the claim or claims may appear to fall within the adjudicating authority of the commandant or commander, or his staff legal officer, the entire record, together with pertinent comments and recommendations, may be referred to the Judge Advocate General for appropriate action.

(c) In all cases not coming within the adjudicating authority of the commandant or commander or his staff legal officer, one copy of the investigative report shall be retained for the files and the original of the report, together with all related papers and all three copies of any claims filed shall be forwarded, with pertinent comments and recommendations, to the Judge Advocate General.

§ 750.41 Approval of claims. (a) Claims cognizable under the provisions

governing administrative settlement of Federal tort claims under Title 28, United States Code, and §§ 750.1-750.7 shall be approved or disapproved, in whole or in part, by any of the following, all of whom are designated to administer those provisions of law for the Navy:

- (1) The Judge Advocate General.
- (2) The Deputy Judge Advocate General.
- (3) The Assistant Judge Advocate General (International and Administrative Law).
- (4) The Director, Civil Law Division, Office of the Judge Advocate General.
- (5) The Head, General Claims Branch, Civil Law Division, Office of the Judge Advocate General.
- (6) Such other officers as may be specifically designated by the Secretary of the Navy from time to time on an ad hoc basis to act upon claims arising out of particular incidents.
- (7) The Commandant or the District Legal Officer of the Naval district within which the claims arose or, if the claims arose in Guam, Commander, Naval Forces, Marianas, or his staff legal officer, if the combined liquidated and known potential claims of all possible claimants for the property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident. Two copies of the approval and one copy of the voucher shall be forwarded to the Office of the Judge Advocate General without a letter of transmittal.
- (8) The Legal Officer, U. S. Naval Base, Newport, Rhode Island, and the Legal Officer, U. S. Naval Submarine Base, New London, Connecticut, for claims accruing to operators of fishing vessels for damage to nets, booms, lines, and other trawler impedimenta as a result of contact with naval ordnance (mines and torpedoes), if the combined liquidated and known potential claims of all possible claimants for property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident. Two copies of the approval and one copy of the voucher shall be forwarded to the Office of the Judge Advocate General without a letter of transmittal.
- (b) Claims cognizable under the Military Claims Act and §§ 750.17-750.26 shall be approved or disapproved, in whole or in part by any of the following, all of whom are designated to administer those provisions of law for the Navy:
 - (1) The Judge Advocate General.
 - (2) The Deputy Judge Advocate General.
 - (3) The Assistant Judge Advocate General (International and Administrative Law).
 - (4) The Director, Civil Law Division, Office of the Judge Advocate General.
 - (5) The Head, General Claims Branch, Civil Law Division, Office of the Judge Advocate General.
 - (6) Such other officers as may be specifically designated by the Secretary

of the Navy from time to time on an ad hoc basis to act upon claims arising out of particular incidents.

(7) The Commandant or the District Legal Officer of the Naval district within which the claims arose or, if the claims arose in Guam, Commander, Naval Forces, Marianas, or his staff legal officer, if the combined liquidated and known potential claims of all possible claimants for the property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident.

(8) The Officer in Charge, U. S. Sending State Office for Italy.

(9) The Legal Officer, U. S. Naval Base, Newport, Rhode Island, and the Legal Officer, U. S. Naval Submarine Base, New London, Connecticut, for claims accruing to operators of fishing vessels for damage to nets, booms, lines and other trawler impedimenta as a result of contact with naval ordnance (mines and torpedoes), if the combined liquidated and known potential claims of all possible claimants for property damage arising from the accident or incident do not exceed a total amount of \$1,000 and there are no known possible claims in any amount for either personal injury or death as a result of the accident or incident.

(10) Foreign Claims Commissions to the extent authorized by Department of Defense Notices of January 28, 1955 (20 F. R. 775) and December 14, 1953 (18 F. R. 8513). (See section 32 of the Foreign Claims Regulations [§ 753.32 of this chapter].)

(c) Claims cognizable under 10 U. S. C. 7625 and §§ 750.27-750.28 shall be approved or disapproved by the Secretary of the Navy.

(d) Subject to the provisions of 28 U. S. C. 1346 (b) and §§ 750.8-750.16 respecting civil action against the United States, and subject to the provisions of § 750.42, with regard to appeal, any award or determination of the Secretary of the Navy, or his designees, under the provisions governing administrative settlement of Federal tort claims under Title 28, United States Code, is final and conclusive upon all officers of the Government, except when procured by means of fraud. Notwithstanding any other provision of law to the contrary, any settlement made by the Secretary of the Navy under the authority of the Military Claims Act (10 U. S. C. 2733) and §§ 750.17-750.26, or, subject to the provisions of § 750.42 with regard to appeal to the Secretary of the Navy, by his designees for the purpose, is final and conclusive for all purposes.

§ 750.42 *Notice and appeal.* (a) The claimant shall, in every case, be notified by the approving and disapproving authority, in writing, of the action taken on his claim.

(b) When a claim has been disapproved, either in whole or in part, the claimant may, within thirty days after receipt of the aforementioned notification, appeal to the Secretary of the Navy (Judge Advocate General), stating the

grounds relied upon for such appeal. Such appeals, in cases of claims considered under the Military Claims Act (10 U. S. C. 2733), shall be decided by the Secretary of the Navy. In cases of claims considered under Title 28, United States Code, the appeal, except in cases originally processed and disapproved by the Judge Advocate General, may be decided either by the Secretary of the Navy or the Judge Advocate General. In cases originally processed and disapproved by the Judge Advocate General, the appeal shall be decided by the Secretary of the Navy.

§ 750.43 *Settlement agreement.* (a) In cases in which the claim is approved in the full amount claimed, no settlement agreement, other than the agreement incorporated in the claim for damage or injury, Standard Form No. 95, is necessary. In cases in which the claim is being approved for a lesser amount than that claimed, no payment will be made until the claimant has indicated in writing his willingness to accept such amount in full satisfaction and final settlement of the claim.

(b) The acceptance by the claimant of any award or settlement made by the Secretary of the Navy, or his designees for the purpose, in pursuance of the authority granted by statute and these regulations, or of any award, compromise, or settlement made by the Attorney General, is final and conclusive upon the claimant and constitutes a complete release by the claimant of any claim against the United States by reason of the same subject matter. The acceptance by the claimant of any award, compromise, or settlement made under the provisions governing the administrative settlement of Federal tort claims under Title 28, United States Code, or the civil action provisions of 28 U. S. C. 1346 (b), and §§ 750.1-750.16 also constitutes a complete release by the claimant of any claim against the employee of the Government whose act or omission gave rise to the claim; by reason of the same subject matter.

§ 750.44 *Payment of claims.* Claims approved by the Secretary of the Navy, the Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (International and Administrative Law), the Director, Civil Law Division, Office of the Judge Advocate General, or the Head, General Claims Branch, Civil Law Division, Office of the Judge Advocate General as provided in § 750.41 shall be forwarded to the U. S. Navy Regional Accounts Office, Washington 25, D. C., for payment from appropriations designated for that purpose. Claims approved by the Officer in Charge, U. S. Sending State Office for Italy, the Legal Officer, U. S. Naval Base, Newport, Rhode Island, the Legal Officer, U. S. Naval Submarine Base, New London, Connecticut, or a Commandant or District or Staff Legal Officer as provided in § 750.41 shall be forwarded to such disbursing officer as may be designated by the Bureau of Supplies and Accounts for payment from appropriations designated for that purpose.

§ 750.45 *Claims in favor of the United States.* (a) Demands for the payment of all claims in favor of the United States shall be made only by the Judge Advocate General of the Navy or by such other officers as may be specifically designated by the Judge Advocate General for that purpose. Ordinarily, in cases where the Commandant of a Naval District determines that a valid claim exists in favor of the United States, the record together with his recommendations shall be forwarded to the Judge Advocate General for appropriate action.

(b) Where a private party who has caused damage to Government property, or the insurer of such private party, agrees to have the Government property repaired to the satisfaction of the proper Government official concerned, and to pay therefor directly to the person making the repairs, and where such a procedure would be to the interest of the Government, the commanding officer of the activity concerned is authorized to permit such private accomplishment of the necessary repairs. The commanding officer is further authorized to assure the private party who caused the damage that a full release of the claim of the United States arising from such damage will be executed by the Judge Advocate General of the Navy or his designee upon completion of the repairs to the entire satisfaction of the proper Government official, and upon payment by the private party of the entire cost of such repairs.

(c) The procedure authorized in paragraph (b) of this section may be followed without prior approval by the Judge Advocate General and without awaiting the submission of the investigative report required by these regulations. The investigative report submitted in accordance with the requirements of regulations, however, shall contain a statement of the cost of the repairs and a certification by the proper Government official to the effect that all damages have been satisfactorily repaired and that full payment therefor has been made. A release will then be executed by the Judge Advocate General or his designee and will be forwarded promptly to the appropriate District Legal Officer, or, upon request, to the private party paying for the repairs, or to the insurer of such private party.

(d) In the event repairs to the Government property have been made or are to be made at Government expense and the private party who caused the damage, or the insurer of such private party, tenders full payment for such repairs, such payment should be made in the form of a check, draft or money order, payable to the order of the Treasurer of the United States, and forwarded to the Judge Advocate General. A release will then be executed by the Judge Advocate General or his designee and will be forwarded promptly to the appropriate district legal officer, or, upon request, to the private party paying for the repairs, or the insurer of such private party. (Exception: Where repairs have been paid for out of Industrial Funds, such payment may be deposited locally to such Funds. See Navy Comptroller Manual, paragraph 043114.)

§ 750.46 *Disclosure of information.* No military personnel or civilian employees of the Navy shall release copies of official papers or any other information which can be used as the basis of a claim against the United States, unless such release be properly authorized by competent authority and be made in the discharge of official duties. In particular, the contents of the investigative report shall not be disclosed to the claimant or his attorney or agent, nor shall the claimant be advised as to the recommendations made with regard to his claim. In cases where the claim and investigative report have been forwarded to the Judge Advocate General of the Navy for consideration, claimants who make inquiry as to the status of their claim should be advised that such information may be obtained from the Judge Advocate General.

§ 750.47 *Authority for issuance of instructions by the Judge Advocate General.* The Judge Advocate General of the Navy is hereby authorized to issue such instructions, not in conflict with the regulations in this part, as may be necessary to give full force and effect thereto.

2. Part 753 is revised to read as follows:

PART 753—FOREIGN NONCOMBAT CLAIMS

SCOPE OF THE FOREIGN CLAIMS ACT

- Sec. 753.1 General.
753.2 Purpose.
753.3 Territorial application.
753.4 Acts not within scope of employment.
753.5 Criminal acts.
753.6 Elements of damage in case of personal injury and death.
753.7 Bailed or leased property.
753.8 Use and occupancy of real property.
753.9 Other noncombat activities.

LIMITATIONS OF APPLICATION

- 753.10 Persons excluded as claimants.
753.11 Claims excluded.
753.12 Negligence or wrongful act on the part of claimant.
753.13 Combat activities.
753.14 Claims of subrogees.
753.15 Statute of limitations.
753.16 Nature of claim.
753.17 Claims for damage occasioned by naval vessels.

FOREIGN CLAIMS COMMISSIONS

- 753.18 Creation.
753.19 Membership of commissions.

PROCEDURE

- 753.20 No formal procedure prescribed.
753.21 Report of proceedings.
753.22 Notification to claimant of award.
753.23 Payments.

CONDITIONS OF PAYMENT

- 753.24 Conditions to be fulfilled.

NATURE OF RELEASES

- 753.25 Release when award is made.

CLAIMS DISALLOWED BY FOREIGN CLAIMS COMMISSIONS

- 753.26 Forwarded to the Judge Advocate General.

CLAIMS NOT WITHIN JURISDICTION OF FOREIGN CLAIMS COMMISSIONS

- 753.27 Meritorious claims in excess of \$15,000.
753.28 Claims arising from incidents on the high seas.

Sec. 753.29 Claims arising in specified foreign countries.

CROSS-SERVICING AND MISCELLANEOUS SPECIAL AUTHORITY

- 753.30 Cross-servicing.
753.31 Claims arising from the activities of Military Assistance Advisory Groups.
753.32 Settlement Authority under the Military Claims Act (10 U. S. C. 2733).

AUTHORITY: §§ 753.1 to 753.32 issued under sec. 6011, 70A Stat. 375; 10 U. S. C. 6011. Interpret or apply secs. 1-4, 68 Stat. 1006-1007, sec. 2734, 70A Stat. 154; 31 U. S. C. 2241-2—2241-5, 10 U. S. C. 2734.

SCOPE OF THE FOREIGN CLAIMS ACT

§ 753.1 *General.* Claims for damage to or loss of real or personal property of a foreign country, political subdivision or inhabitant of a foreign country, and for personal injury or death of the inhabitant of a foreign country, occurring outside the United States, its Territories, Commonwealths or possessions and caused by its military forces or individual members (whether military personnel or civilian employees) thereof or otherwise incident to noncombat activities of such forces are within the scope of the Foreign Claims Act (10 U. S. C. 2734). The word "claims" as used in the regulations in this part refers to those demands for payment submitted by individuals, partnerships, associations, or corporations, including foreign countries, and states, territories, and other political subdivisions of such countries, other than such demands for payment as arise under ordinary obligations incurred by the Department of the Navy in the procurement of services or supplies.

§ 753.2 *Purpose.* The purpose of the Foreign Claims Act (10 U. S. C. 2734) is the "promoting" and "maintaining" of "friendly relations" in foreign countries by the prompt "settlement" of "meritorious" claims. The regulations in this part are to be so administered as to effectuate the expressed purpose of Congress.

§ 753.3 *Territorial application.* The provisions of the regulations in this part are applicable to claims arising outside the United States, or its Territories, Commonwealths or possessions. The fact that a claim arises at a place, within a foreign country, under the temporary or permanent jurisdiction of the United States does not preclude the allowance thereunder of a claim which would otherwise be within the Foreign Claims Act.

§ 753.4 *Acts not within scope of employment.* As far as military personnel are concerned, the doctrine of scope of employment has no application. Claims, otherwise within the Foreign Claims Act, may be allowed regardless of whether the naval personnel or employee of the United States who caused the damage, injury, or death was acting within the scope of his employment: *Provided*, That no claim may be allowed if the damage, injury, or death is caused by a civilian employee of the United States, who, if a citizen of the foreign country, is acting outside the scope of his employment. In

determining whether conduct, although not expressly authorized, is nevertheless within the scope of employment, consideration may be given to all of the attendant facts and circumstances including, the time, place, and purpose of the activity; whether the activity was for the furtherance of the general interest of the Government; whether the activity is usual for personnel of the grade and classification involved or reasonably to be expected of such personnel; and whether the instrumentality from which the damage or injury resulted was owned or furnished by the Government. A slight deviation as to time or place will ordinarily not constitute a departure from scope of employment; such a deviation, to have legal effect, must be a material deviation.

§ 753.5 *Criminal acts.* That the act giving rise to the claim may constitute a crime does not bar relief. Claims, otherwise within the Foreign Claims Act, may be allowed regardless of whether the act of the officer or employee of the United States which caused the damage, injury, or death was a crime or other wrongful act, or negligence or mere mistake of judgment.

§ 753.6 *Elements of damage in case of personal injury and death.* Actual and reasonable medical and hospital expenses, reasonable compensation for pain and suffering and loss of earning capacity may be paid in cases of personal injury. If death results, actual and reasonable burial expenses and reasonable compensation for loss of prospective support may also be allowed. Claims of dependents or loss of prospective support are allowable only if such claims are recognized by the law of the country where the injury occurred. In computing damages in cases of personal injury or death, local standards will be taken into consideration as a controlling factor. In case of death, only one claim arises; the amount approved therefor will, to the extent found practicable or feasible, be apportioned among the beneficiaries and in the proportions prescribed by law or custom of the place in which the accident or incident resulting in the death occurs.

§ 753.7 *Bailed or leased property.* Claims for damage to or loss or destruction of personal property, otherwise within the Foreign Claims Act, may be settled thereunder, notwithstanding the fact that the property was loaned, rented, or otherwise bailed to the Government under an agreement, express or implied. Claims for rent of personal property are not payable under the regulations in this part.

§ 753.8 *Use and occupancy of real property.* Claims for damage to real property incident to the use and occupancy thereof by the Government under a lease, express or implied, or otherwise, are payable under the provisions of these regulations even though legally enforceable against the Government, as contract claims; payment may, however, be precluded by the provisions of § 753.13. Claims payable under this section may, if deemed preferable as in the best inter-

ests of the Government, be processed as contract claims. Claims for rent of real property are not payable under the regulations in this part.

§ 753.9 *Other noncombat activities.* Claims for damage to or loss or destruction of property, or for personal injury or death, though not caused by acts or omissions of military personnel or civilian employees of the Navy, are payable under the provisions of this section if otherwise incident to the noncombat activities of the Navy. In general the claims within the above category are those arising out of authorized activities which are peculiarly military activities having little parallel in civilian pursuits and to situations which historically have been considered as furnishing a proper basis for the payment of claims. Included are claims where no particular act or omission on the part of military personnel or civilian employees is present or if present and though occurring within the scope of their employment is at least less obvious or less personal but where, because of the peculiar nature of the activity or of the resulting damage or injury, the burden of the loss should be borne rather by the Government than by the particular individual on whom the loss initially fell. Included also are claims arising out of activities such as those involving the use of explosives, whether or not involving negligent acts or omissions, of which damage or injury is a natural consequence. For example, included are claims for damage or injury arising out of, and which are natural or probable results of incidents of, maneuvers and special field exercises, practice firing of heavy guns, practice bombing, operation of aircraft and antiaircraft equipment, use of instrumentalities having latent mechanical defects not traceable to negligent acts or omissions, movement of combat vehicles or other vehicles, designed especially for military use, and use and occupancy of real estate.

LIMITATIONS OF APPLICATION

§ 753.10 *Persons excluded as claimants.* The following classes of claimants are among those excluded:

(a) Members and civilian employees of the armed forces of the United States and their dependents who are inhabitants of the United States and who are in a foreign country primarily because of their sponsors' or their own military orders.

(b) Nationals of a country at war with the United States, or any ally of such an enemy country, except as the Foreign Claims Commission considering the claim, or the local military commander, shall determine that the claimant is friendly to the United States.

§ 753.11 *Claims excluded.* The following classes of claims are excluded: Claims purely contractual in character; private contractual and domestic obligations of individual military personnel or civilian employees; claims based solely on compassionate grounds; bastardy claims; claims for patent infringement.

§ 753.12 *Negligence or wrongful act on the part of claimant.* No claim will be allowed where the damage, injury, or

death is proximately caused in whole or in part by negligence or wrongful act on the part of the claimant, his agent, or employee. This limitation is applicable to situations where under the law of the country where the injury arises contributory negligence bars the claim. If, however, under the law or custom of the country in which the claim arises, such contributory negligence or wrongful act is not recognized generally as a bar to recovery in tort claims, or is held to be a factor diminishing the extent of the claimant's recovery, then in that case such local law or custom will be applied so far as practicable, in determining the effect of such negligence or wrongful act.

§ 753.13 *Combat activities.* Claims for damage to or loss or destruction of property, or for personal injury or death, resulting from action by the enemy, or resulting directly or indirectly from any act by armed forces engaged in combat, are not payable under the Foreign Claims Act.

§ 753.14 *Claims of subrogees.* Settlement will be made solely with the insured, rather than with the insurer or with both the insured and the insurer, in cases of damage to or loss or destruction of property or personal injury or death covered by insurance. No inquiry will be made into, or determination made of, the relative interests as between insured and insurer. The entire claim, including any portion thereof insured against, will be filed by or on behalf of the insured and payment of the entire amount allowed will be made to the insured as the real claimant. Claims by insurers in their own right are not within the provisions of the Foreign Claims Act, and will not be considered; insurers presenting claims shall be so advised and informed that subrogation claims are not recognized under the act. Evidence of authority to file a claim on behalf of the insured may be established by a power of attorney, or other documentary evidence satisfactory to the Foreign Claims Commission.

§ 753.15 *Statute of limitations.* A claim may be allowed under the regulations in this part only if it is presented within one year after it accrued.

§ 753.16 *Nature of claim.* Any claim will be considered if it states substantially the material facts with such definiteness as to give reasonable notice of the time, place, and nature of the accident or incident out of which the claim arose and an estimate or statement of the damage, loss, destruction, injury, or death resulting. The claim should be signed by or on behalf of the claimant and should, if practicable, be under oath. In cases in which the claim is made in behalf of the true claimant, satisfactory evidence of authority to act for the claimant must be furnished.

§ 753.17 *Claims for damage occasioned by naval vessels.* Unless specifically authorized by the Judge Advocate General in each case, the Foreign Claims Commission shall not assume jurisdiction or proceed to hear any claim for damage occasioned by a naval vessel. This provision applies to claims for damage

caused to land structures as well as claims of an admiralty nature. The occurrence of any such damage, if brought to the attention of a claims commission, shall be reported immediately to the Judge Advocate General, attention of the Admiralty Division.

FOREIGN CLAIMS COMMISSIONS

§ 753.18 *Creation.* (a) All commanding officers are hereby granted authority to appoint Foreign Claims Commissions. For the purposes of the Foreign Claims Act and these regulations, the Officer in Charge, U. S. Sending State Office for Italy and naval attachés are to be considered commanding officers. Commissions may be appointed to consider each claim as presented, or to constitute a standing claims commission to consider all claims presented to it. The commanding officer to whom a claim is presented has the duty of referring the claim to a commission, and of appointing a commission himself where necessary or expeditious. Each Foreign Claims Commission will be composed of one or more officers.

(b) Claims may be considered by a commission of not more than one member when the amount claimed is not in excess of \$1,000; claims may be considered by a commission consisting of three members when the amount claimed exceeds \$1,000. The findings of a claims commission are final and not subject to review where the amount awarded is not in excess of \$2,500. Where the amount which the Commission recommends be paid exceeds \$2,500 but does not exceed \$15,000, the findings and opinion of the claims commission are subject to the review of the commanding officer; claims as to which the amount the Commission recommends be paid exceeds \$2,500 but does not exceed \$15,000 may be paid only when the commanding officer has approved the action of the commission in allowing such claim. Claims as to which the amount the commission recommends be paid exceeds \$5,000 but does not exceed \$15,000 may be paid only when the Judge Advocate General or, with respect to claims which arose in Italy, the Officer in Charge, U. S. Sending State Office for Italy, has approved the action of the commission in allowing such claims. As to claims exceeding \$15,000, see §§ 753.24 (b), (j) and 753.27.

§ 753.19 *Membership of commissions.* The commission shall consist of not less than one or more than three commissioned officers of either the Navy or Marine Corps, who shall have rank commensurate with the claim being investigated.

PROCEDURE

§ 753.20 *No formal procedure prescribed.* No formal procedure for the conduct of an investigation of a claim is prescribed. However, the instructions governing the procedure of courts of inquiry and boards of investigation by the 1955 Naval Supplement to the Manual for Courts-Martial, United States, 1951, should be followed in principle as a guide. A transcript of the testimony of witnesses is not required and only the sub-

stance of statements of witnesses need be recorded. However, it is desirable that signed statements of material witnesses be made a part of the record. The formal rules of evidence need not be adhered to and any evidence, regardless of its form, which the commission deems material may be received and evaluated.

§ 753.21 *Report of proceedings.* The commission shall at the conclusion of its hearings make findings of fact regarding each claim and of the amount, in the indigenous currency of the country in which the incident occurred or of which claimant was or is an inhabitant, found by it to be just compensation to the claimant and make a brief written report of its proceedings. The report should set forth as a minimum:

(a) The date or dates of the hearing or hearings.

(b) The date of the final determination.

(c) The amount claimed stated in the indigenous currency, and solely for administrative control purposes, the conversion into United States currency at the existing official rate of exchange on the date of initial consideration of the claim.

(d) The amount awarded stated in the indigenous currency, and solely for administrative control and memorandum accounting purposes, the conversion into United States currency at the existing official rate of exchange on the date of final determination.

(e) A brief statement of facts, including the date of accident or injury, the date the claim was filed, and the nature of the damage or injury (i. e., whether to person or property).

(f) Findings as to the necessary jurisdictional facts. A copy of the precept creating the commission together with a copy of claimant's release (in case of allowance) or notification to claimant (in case of disallowance) should be attached to the report. The original report, together with three copies, will be submitted to the convening authority. When the findings of fact of such commission are received by the convening authority they shall in each case be final and conclusive. This procedure applies to claims where the amount to be paid does not exceed \$2,500. Where the amount which the commission recommends be paid exceeds \$2,500 but does not exceed \$5,000, the findings of the commission are transmitted to the convening authority for his consideration and approval; upon receiving such approval, the findings shall in such cases be final and conclusive. For claims which the commission considers meritorious in an amount exceeding \$15,000 see §§ 753.24 (b), (j) and 753.27.

§ 753.22 *Notification to claimant of award.* Upon completion of the report of the commission and approval by the convening authority when required, the claimant will be notified of the award and, if the claimant executes a release for the amount of the award, this release together with the original and one copy of the report of the commission shall be transmitted to the nearest disbursing officer for payment. At the same

time one copy of the report shall be forwarded to the Secretary of the Navy (Office of the Judge Advocate General) for filing.

§ 753.23 *Payments.* Claims authorized to be paid under this part will be forwarded after approval to the nearest Navy or Marine Corps disbursing officer for preparation and payment of the public voucher.

CONDITIONS OF PAYMENT

§ 753.24 *Conditions to be fulfilled.* Prior to payment of any claim within the Foreign Claims Act, each of the following conditions must be fulfilled:

(a) The amount due on account of the damage, loss, destruction, injury, or death must be determined.

(b) The award must not exceed \$15,000, but recommendation for awards in excess of that amount may be reported to Congress for consideration.

(c) The claim must be presented within 1 year.

(d) Claims by subrogees will not be recognized, except as a part of the insured's claim.

(e) Contributory negligence or wrongful act, which is in whole or in part the proximate cause of the injury, bars a claim unless such contributory negligence is not a bar to recovery or is only a diminution of the extent of recovery in tort claims under the local law or custom.

(f) The damage, injury, or death must not have resulted from any action by the enemy or directly or indirectly from any act of American or Allied armed forces engaged in combat.

(g) The damage, loss, personal injury or death must occur outside the United States, its Territories, Commonwealths or Possessions and be

(1) damage to, or loss of, real property of a foreign country or of a political subdivision or inhabitant of a foreign country, including damage or loss incident to use and occupancy, or

(2) damage to, or loss of, personal property of a foreign country or of a political subdivision or inhabitant of a foreign country, including property bailed to the United States, or

(3) personal injury to, or death of, an inhabitant of a foreign country.

(h) If the claimant is a national of a country at war with the United States, or of any ally of such enemy country, there must be a determination by the Foreign Claims Commission or by the local commander that the claimant is friendly to the United States.

(i) The claim must be approved by a Foreign Claims Commission and, if in excess of \$2,500, by such higher authority as prescribed by § 753.18 (b).

(j) The claimant must accept, in full satisfaction and in final settlement, the amount approved, and give a release therefor.

NATURE OF RELEASES

§ 753.25 *Release when award is made.*

(a) A release should be obtained from the claimant in every case in which an award is made by a commission and accepted by the claimant.

(b) The release executed by the claimant should release the United States and also release the tort-feasor or the person or persons who have done the damage occasioned if their identity is known. If the identity of such persons is unknown and they cannot be described by name, in such an instance, the release should recite that the claimant also releases the person or persons who occasioned the injury, the names and identity of said person or persons being unknown to the claimant.

(c) The release executed should preclude any possible future assertion of the claim for which the United States has made compensation.

CLAIMS DISALLOWED BY FOREIGN CLAIMS COMMISSIONS

§ 753.26 *Forwarded to the Judge Advocate General.* Claims within the final jurisdiction of the commission but disallowed as not meritorious or for any other reason will be forwarded direct to the Judge Advocate General within 30 days. In all such cases the original and two copies of the report, claim, and supporting papers (including a copy of the notification of disallowance to the claimant) will be so forwarded; the remaining copy will be retained by the commission for its files.

CLAIMS NOT WITHIN JURISDICTION OF FOREIGN CLAIMS COMMISSIONS

§ 753.27 *Meritorious claims in excess of \$15,000.* Claims within the Foreign Claims Act, except that the total amount due on account of damage, injury, and death exceeds \$15,000 and the claimant will not accept \$15,000 in full satisfaction and in final settlement of his claim, will be forwarded direct to the Judge Advocate General for legal review and appropriate administrative action. All claims of this nature shall be considered by a commission consisting of three members, and the record of such proceedings shall include signed statements of material witnesses or transcripts of their oral testimony. The Foreign Claims Commission will forward with any such claims its findings, and any recommendation as to the action to be taken (including its findings as to the total damage, injury, and death sustained) together with, if practicable, a statement from the owner of the property or the person injured, or the legal representative of the person killed, signifying his willingness to accept the amount so found in full satisfaction and in final settlement of his claim. In all such cases, the original and two copies of the report, claim and supporting papers will be so forwarded; the remaining copy will be retained by the commission for its files.

§ 753.28 *Claims outside the jurisdiction of the commission.* Claims arising

from incidents on the high seas are ordinarily not within the jurisdiction of a Foreign Claims Commission; see § 753.17. In cases in which a commission considers that the claimant (or decedent in the case of a death claim) is not an inhabitant of a foreign country (or is not the government or a political subdivision of a foreign country) reports shall be forwarded in triplicate to the Judge Advocate General as in cases under § 753.27.

§ 753.29 *Claims arising in specified foreign countries.* The United States has ratified the NATO Status of Forces Agreement (4 U. S. T. 1792) and has entered into, and contemplates entering into, other similar agreements with foreign countries. Article VIII of the NATO Status of Forces Agreement and certain provisions of other agreements are inconsistent with the continued unrestricted use of the Foreign Claims Act and its implementing regulations in certain countries. It is, therefore, directed that the directives of the cognizant area commander be consulted and that claims not be referred to foreign claims commissions until it has been determined that such action is not inconsistent with the provisions of the aforementioned agreements and their implementing directives. Department of Defense notice of January 28, 1955 (20 F. R. 775) directs that, where a single service has been or may be assigned responsibility for claims in a particular country or area, all reimbursements, settlements or payments that may be made in such country or area under the Foreign Claims Act (10 U. S. C. 2734) and the Military Claims Act (10 U. S. C. 2733) shall be made solely by that service. In countries in which the NATO Status of Forces Agreement or a similar agreement is in force, accidents which may give rise to a tort claim against the United States arising from acts or omissions of naval personnel, or members of the civilian component of the naval service, including claims for death or personal injury resulting from the navigation or operation of a ship, or in the loading, carriage or discharge of its cargo, will be investigated and reports will be made in accordance with the instructions promulgated by the cognizant naval commander.

CROSS-SERVICING AND MISCELLANEOUS SPECIAL AUTHORITY

§ 753.30 *Cross-servicing.* Department of Defense notice of January 28, 1955 (20 F. R. 775) provides that any claim, which may be settled under the provisions of the Foreign Claims Act and the Military Claims Act may be settled retroactively to August 1, 1953 by any commission or commissions appointed by the Army, Air Force, Navy or Marine Corps under the provisions thereof, without regard to the service of the military tort-

feasor. See § 753.29 in regard to areas in which cross-servicing is mandatory.

§ 753.31 *Settlement of claims arising from the activities of Military Assistance Advisory Groups.* Department of Defense notice of December 14, 1953 (18 F. R. 8513) directs that claims against the United States, except claims cognizable by foreign governments under the provisions of existing treaties and agreements, which have arisen since January 30, 1953, or may hereafter arise from the activities of Military Assistance Advisory Groups, or of the military personnel or civilian employees thereof which are otherwise cognizable under such acts, shall be settled in accordance with the provisions of the Foreign Claims Act or the Military Claims Act and the regulations of the responsible Department implementing such acts. In accordance with this directive, foreign claims commissions of the Navy shall be responsible for the processing and settlement of such claims arising in foreign countries in which the Navy has been made responsible for the processing of claims under the NATO Status of Forces Agreement or other pertinent treaties or agreements in areas in which the Navy has the predominant interest.

§ 753.32 *Settlement authority under the Military Claims Act (10 U. S. C. 2733).* Department of Defense notice of January 28, 1955 (20 F. R. 775) provides that any claims, whether Army, Air Force, Navy or Marine Corps, which may be settled under the provisions of the Foreign Claims Act or of the Military Claims Act, may be settled retroactively to August 1, 1953 by any commission or commissions appointed under the regulations of any of the above-listed services, without regard to the service of the military tort-feasor. Department of Defense notice of December 14, 1953 (18 F. R. 8513) directs settlement of claims in certain instances arising from the activities of Military Assistance Advisory Groups, or of the military personnel or civilian employees thereof which are otherwise cognizable under the Military Claims Act. See § 753.29 in regard to areas in which cross-servicing is mandatory. The regulations implementing this statutory settlement authority are contained in the Navy General Claims Regulations (Part 750 of this chapter) and will be followed, as far as applicable, in the settlement of claims under this Act by foreign claims commissions.

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral, U. S. Navy, Judge
Advocate General of the Navy.

APRIL 10, 1958.

[F. R. Doc. 58-2826; Filed, Apr. 16, 1958; 8:47 a. m.]

Subchapter F—Islands Under Navy Jurisdiction

PART 761—NAVAL DEFENSIVE SEA AREAS, NAVAL AIRSPACE RESERVATIONS, AREAS UNDER NAVY ADMINISTRATION, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Subchapter G—Miscellaneous Rules

PART 765—RULES APPLICABLE TO THE PUBLIC

Scope and purpose. Part 761 and § 765.6 are revised to reflect current regulations issued under authority of statutes and Executive orders. The deleted portions of § 765.6 are covered by Part 761 as revised.

1. Part 761 is revised to read as follows:

Subpart A—Introduction

- Sec.
761.1 Scope.
761.2 Background and general policy.
761.3 Authority.
761.4 Special provisions.
761.5 Definitions.

Subpart B—Criteria and Basic Controls

- 761.6 Criteria.
761.7 Basic controls.

Subpart C—Entry Authorization

- 761.8 General.
761.9 Entry Control Commanders.
761.10 Persons: group authorizations.
761.11 Persons: individual authorizations.
761.12 Vessels: group authorizations.
761.13 Vessels: individual authorizations.
761.14 Aircraft: group authorizations.
761.15 Aircraft: individual authorizations.
761.16 Notice of action.
761.17 Revocation.
761.18 Appeals.

Subpart D—Additional Instructions

- 761.19 Inspection and search of vessels and other craft.
761.20 Naval Defensive Sea Area closed between sunset and sunrise.
761.21 Compliance with laws and regulations.
761.22 Apprehension of vessels, aircraft or persons.
761.23 Formulation of additional rules.
761.24 Commander, U. S. Naval Forces, Marianas, designated local representative of the Secretary of the Navy.

AUTHORITY: §§ 761.1 to 761.24 issued under 44 Stat. 570, sec. 1, 62 Stat. 799, sec. 6011, 70A Stat. 375; 49 U. S. C. 174, 18 U. S. C. 2152, 10 U. S. C. 6011. Interpret or apply sec. 202, 61 Stat. 500, as amended, sec. 21, 64 Stat. 1009; 5 U. S. C. 171a, 50 U. S. C. 797.

SUBPART A—INTRODUCTION

§ 761.1 **Scope.** (a) This part includes regulations governing entry of persons, vessels, and aircraft into:

- (1) Naval Defensive Sea Areas and Naval Airspace Reservations established by Executive order of the President.
- (2) Areas placed by Executive order of the President under the Secretary of the Navy for administrative purposes.
- (3) The Trust Territory of the Pacific Islands.
- (4) The Bonin, Volcano, and Marcus Islands.
- (5) Naval stations located within or contiguous to Naval Defensive Sea Areas or Naval Airspace Reservations.

(b) In addition to the authorization required by this part, local clearance is required for entry into certain restricted

areas, including the Saipan District and the Islands of Bikini and Eniwetok in the Trust Territory and the Bonin, Volcano and Marcus Islands. The entry authorizations issued under the authority of this part do not supersede or eliminate the need for visas or other clearances or permits required by other law or regulation.

§ 761.2 **Background and general policy.** The free entry into the defense areas, listed and defined in this part, and naval and military installations located contiguous to or within the boundaries of defense areas has been barred or restricted by Executive order and by regulation for defense purposes due to the unique strategic nature of the areas and for the protection of the military and naval stations, bases and other facilities located therein and the personnel, property, and equipment assigned to or located within such areas, bases, stations, and facilities, against destruction, loss or injury by accident or enemy action or by sabotage or other subversive actions. Persons, vessels, and aircraft are excluded unless and until they qualify for admission under the Executive order and applicable regulations.

(b) The control of entry into or movement within defense areas by persons, vessels, and aircraft will be exercised so as to fully protect the physical security of, and insure the full effectiveness of, bases, stations, and other facilities within or contiguous to defense areas; but unnecessary interference with the free movement of persons, vessels, and aircraft is to be avoided.

(c) This part will be administered so as to provide prompt processing of all applications, insure uniformity of interpretation and application, insofar as changing conditions permit, and obviate arbitrary or capricious exclusions and other injustices.

(d) In cases of doubt, the determination will be made in favor of the course of action which will serve the interests of the United States and national defense as against the private interests of an individual or group.

(e) Public notices of entry controls are posted at places prescribed by the appropriate entry control commanders.

§ 761.3 **Authority.**—(a) *Naval Defensive Sea Areas and Naval Airspace Reservations.* By Executive order, the President has reserved, set aside, and established the following Naval Defensive Sea Areas and Naval Airspace Reservations under the control of the Secretary of the Navy. Incorporated therein are provisions for the exercise of control by the Secretary over the entry of persons, vessels, and aircraft into the areas so described.

(i) *Atlantic areas.*—(1) *Culebra Island Naval Defensive Sea Area.* Culebra Island Naval Airspace Reservation: Executive Order 8684 of February 14, 1941 (6 F. R. 1016; 3 CFR, 1943 Cum. Supp., p. 895).

(ii) *Guantanamo Bay Naval Defensive Sea Area.* Guantanamo Bay Naval Airspace Reservation: Executive Order 8749 of May 1, 1941 (6 F. R. 2252; 3 CFR, 1943 Cum. Supp., p. 931).

(2) *Pacific areas.*—(i) *Guam Island Naval Defensive Sea Area.* Guam Island Naval Airspace Reservation: Executive Order 8683 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 10341 of April 8, 1952 (17 F. R. 3143; 3 CFR, 1952 Supp., p. 68).

(ii) *Johnston Island Naval Defensive Sea Area.* Johnston Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F. R. 5325; 3 CFR, 1943-1948 Comp., p. 662).

(iii) *Wake Island Naval Defensive Sea Area.* Wake Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F. R. 5325; 3 CFR, 1943-1948 Comp., p. 662).

(iv) *Midway Island Naval Defensive Sea Area.* Midway Island Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F. R. 5325; 3 CFR, 1943-1948 Comp., p. 662).

(v) *Kingman Reef Naval Defensive Sea Area.* Kingman Reef Naval Airspace Reservation: Executive Order 8682 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 9881 of August 4, 1947 (12 F. R. 5325; 3 CFR, 1943-1948 Comp., p. 662).

(vi) *Honolulu Defensive Sea Area.* Executive Order 8987 of December 20, 1941 (6 F. R. 6675; 3 CFR, 1943 Cum. Supp., p. 1048).

(vii) *Kaneohe Bay Naval Defensive Sea Area.* Kaneohe Bay Naval Airspace Reservation: Executive Order 8681 of February 14, 1941 (6 F. R. 1014; 3 CFR, 1943 Cum. Supp., p. 893).

(viii) *Pearl Harbor Defensive Sea Area.* Executive Order 8143 of May 26, 1939 (4 F. R. 2179; 3 CFR, 1943 Cum. Supp., p. 504).

(ix) *Kodiak Naval Defense Sea Area.* Executive Order 8717 of March 22, 1941 (6 F. R. 1621; 3 CFR, 1943 Cum. Supp., p. 915). Kodiak Naval Airspace Reservation: Executive Order 8597 of November 18, 1940 (5 F. R. 4559; 3 CFR, 1943 Cum. Supp., p. 837) as amended by Executive Order 9720 of May 8, 1946 (11 F. R. 5105; 3 CFR, 1943-1948 Comp., p. 527).

(x) *Kiska Island Naval Defensive Sea Area.* Kiska Island Naval Airspace Res-

¹ Operation of entry control suspended. See § 761.4 (b) following.

² Operation of entry control suspended except for entry of foreign flag vessels and foreign nationals.

ervation: ¹ Executive Order 8680 of February 14, 1941 (6 F. R. 1014; 3 CFR, 1943 Cum. Supp., p. 892) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919).

(xi) *Unalaska Island Naval Defensive Sea Area*. Unalaska Island Naval Airspace Reservation: ¹ Executive Order 8680 of February 14, 1941 (6 F. R. 1014; 3 CFR, 1943 Cum. Supp., p. 892) as amended by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919).

(b) *Administrative areas*. By Executive order, the President has reserved, set aside, and placed under the control and jurisdiction of the Secretary of the Navy for administrative purposes the following named islands and surrounding reefs:

(1) *Wake Island*.² Executive Order 6935 of December 29, 1934.

(2) *Kingman Reef*. Executive Order 6935 of December 29, 1934.

(3) *Johnston Island*. Executive Order 6935 of December 29, 1934.

(4) *Sand Island*. Executive Order 6935 of December 29, 1934.

(c) *Trust Territory of the Pacific Islands*. The Trust Territory of the Pacific Islands is a strategic area administered by the United States under the provisions of a Trusteeship Agreement with the United Nations. By Executive Orders 10265 of June 29, 1951 (16 F. R. 6419; 3 CFR, 1951 Supp., p. 448), 10408 of November 10, 1952 (17 F. R. 10277; 3 CFR, 1952 Supp., p. 110), and 10470 of July 17, 1953 (18 F. R. 4231; 3 CFR, 1953 Supp., p. 87), the Secretary of the Interior has been charged with administrative responsibility for the Marshall and Caroline Islands and Rota Island, and the Secretary of the Navy has been charged with administrative responsibility for the northern Mariana Islands (less Rota). Under an agreement between the Department of the Navy and the Department of the Interior with respect to the Transfer of Responsibility for the Administration of the Trust Territory of June 29, 1951, clearance by the Secretary of the Navy of all persons, vessels, and aircraft (other than public vessels or public aircraft of the United States), is a prerequisite to the granting of permission by the High Commissioner to enter the Trust Territory. Entry into the Saipan District is subject to the exclusive control of the Navy Department, which control is exercised under the provisions of this part with additional local control by the Commander, U. S. Naval Forces, Marianas.

(d) *Bonin, Volcano and Marcus Islands*. The Bonin, Volcano and Marcus Islands are administered by the Navy Department, as a strategic area, under provisions of the Peace Treaty with Japan (3 UST 3169). In addition to the requirements of this part, the Commander in Chief, U. S. Pacific Fleet, as Military Governor of the Bonin-Volcano Islands and Marcus Island, exercises

local control over the entry of persons, vessels and aircraft into these islands.

(e) *Exercise of authority*. The authority of the Secretary of the Navy to authorize ships, aircraft and persons to enter these areas listed in paragraphs (a) through (d) of this section is exercised through the Chief of Naval Operations and certain of his subordinates as prescribed by this part.

(f) *Penalties*. Penalties are provided by law: (1) for violations of orders or regulations governing persons or vessels within the limits of defensive sea areas (62 Stat. 799; 18 U. S. C. 2152); (2) for navigation of aircraft within airspace reservations otherwise than in conformity with the Executive orders regulating such reservations (44 Stat. 570, 576; 49 U. S. C. 174, 181); (3) for entering military, naval or Coast Guard property for prohibited purposes or after removal or exclusion therefrom by proper authority (62 Stat. 765; 18 U. S. C. 1382); (4) for violation of regulations imposed for the protection or security of military or naval aircraft, airports, air facilities, vessels, harbors, ports, piers, waterfront facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction, administration, or in the custody of the Department of Defense, any department or agency of which said department or agency consists, or any officer or employee of said department or agency, section 21 of the Internal Security Act of 1950 (50 U. S. C. 797), and Department of Defense notice of August 20, 1954 (19 F. R. 5446); and (5) for knowingly and willfully making a false or misleading statement or representation in any matter within the jurisdiction of any department or agency of the United States (18 U. S. C. 1001).

§ 761.4 *Special provisions*—(a) *Restricted areas*. Special permits are required for entry into the following restricted areas:

(1) *Eniwetok and Bikini Atolls*. Entry into these islands and the territorial sea thereof is controlled by the Commander in Chief, Pacific, and is not covered by or subject to this part.

(2) *Saipan District, Trust Territory*. In addition to the controls covered by this part, entry into this district is subject to local control by the Commander, U. S. Naval Forces, Marianas, Guam.

(3) *Bonin, Volcano, and Marcus Islands*. In addition to the controls covered by this part, entry into these islands or the territorial sea thereof is subject to local control by the Commander in Chief, U. S. Pacific Fleet, as Military Governor.

(b) *Suspension of restrictions*. Restrictions imposed under the authority of the above cited Executive orders on entry into the following Naval Defensive Sea Areas, and Naval Airspace Reservations and Administrative areas have been suspended subject to reinstatement without notice at any time when the purposes of national defense may require:

(1) All Naval Airspace Reservations, except:

(i) Guantanamo Bay Naval Airspace Reservation.

(ii) Culebra Island Naval Airspace Reservation.

(iii) Guam Island Naval Airspace Reservation.

(2) The Wake Island Naval Defensive Sea Area, except for entry of foreign flag vessels and foreign nationals.

(3) The portion of Kaneohe Defensive Sea Area lying Northwest of a line drawn from Lae O Kealohi Point to an Eastern point of Kapapa Island and thence Northeast to the present seaward boundary of the defensive sea area.

(4) Wake Island Administrative Area, except for entry of foreign flag vessels and foreign nationals.

Suspension of restrictions on entry into a naval airspace reservation, naval defensive sea area or naval administrative area, does not affect the authority of a commanding officer or other appropriate commander to control entry into or passage through any base, station, or other installation or area, including port or harbor facilities under Navy control.

§ 761.5 *Definitions*—(a) *Defense area*. A naval defensive sea area, naval airspace reservation or naval administrative area established by Executive order of the President, the Trust Territory of the Pacific Islands and the territorial sea thereof, and the Bonin, Volcano and Marcus Islands and the territorial seas thereof.

(b) *Department of Defense*. The Department of Defense, including the Departments of the Army, Navy, and Air Force.

(c) *Entry authorization*. A permit which authorizes a person, vessel, or aircraft to enter a defense area. (See Group Authorization and Individual Authorization dealt with in §§ 761.10 through 761.15.)

(d) *Entry Control Commander*. A commander authorized to issue entry authorizations for one or more defense areas.

(e) *Excluded person*. A person who does not hold a currently valid entry authorization for the area concerned and who has been notified by an Entry Control Commander that authority for him to enter any defense area has been denied, suspended, or revoked.

(f) *Foreign nationals*. Persons who are not citizens or nationals of the United States.

(g) *Naval station*. A naval activity on shore, having a commanding officer, and located in an area having fixed boundaries, within which all persons are subject to naval jurisdiction and to immediate authority of the commanding officer.

(h) *Permanent resident aliens*. Foreign nationals who have been admitted to the United States as immigrants under the Immigration and Naturalization Laws and are authorized to reside permanently in the United States, its territories and possessions.

(i) *Public vessel or aircraft*. A vessel or aircraft belonging to a government and not engaged in trade.

(j) *Territorial sea*—(1) *Trust Territory*. In accordance with section 874 (c) of the Code of the Trust Territory " * * * that part of the sea comprehended within the envelope of all arcs of circles

¹ Operation of entry control suspended. See § 761.4 (b) following.

² Operation of entry control suspended except for entry of foreign flag vessels and foreign nationals.

having a radius of three marine miles drawn from all points of the barrier reef, fringing reef, or other reef system of the Trust Territory, measured from the low water line, or, in the absence of such reef system, the distance to be measured from the low water line of any island, islet, atoll, reef, or rocks within the jurisdiction of the Trust Territory."

(2) *Other areas.* That part of the sea included within the envelope of all arcs of circles having a radius of three marine miles with centers on the low water line of the coast. For the purpose of this definition, the term "coast" includes the coasts of islands, islets, rocks, atolls, reefs and other areas of land permanently above the high water mark.

(k) *Trust Territory Registry.* Registration of a ship or aircraft in accordance with the laws of the Trust Territory.

(l) *U. S. Armed Forces.* Military personnel of the Department of Defense, the Departments of the Army, Navy, Air Force, and the United States Coast Guard.

(m) *U. S. Registry.* Registration of a vessel or aircraft in accordance with the laws and regulations of the United States.

SUBPART B—CRITERIA AND BASIC CONTROLS

§ 761.6 *Criteria*—(a) *General.* (1) Entry authorizations may be issued only after an Entry Control Commander, or a duly authorized subordinate acting in his behalf, has determined that the presence of the person, vessel, or aircraft will not, under existing or reasonably foreseeable future conditions, endanger, place an undue burden upon, or otherwise jeopardize the efficiency, capability or effectiveness of any military or naval installation located within or contiguous to a defense area. Factors to be considered shall include, but not be limited to, the true purpose of the entry, the personal history, character and present or past associates of the individuals involved, the possible burdens or threats to the defense facilities which the presence of the ship, aircraft or the individual or individuals (either singly or as members of a group or class) involved impose or might reasonably be expected to impose on the related base complex.

(2) Requests for entry authorizations will be evaluated and adjudged as to whether the entry at the time and for the purpose stated will or will not be inimicable to the purposes of national defense.

(b) *Adverse.* Substantial evidence of any of the following shall preclude the granting of entry authorization except with the specific approval of the Chief of Naval Operations in each case:

(1) Prior noncompliance with entry control regulations or failure to observe terms under which an entry authorization may have been granted;

(2) Willfully furnishing false, incomplete, or misleading information in an application for an entry authorization;

(3) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means;

(4) Commission of, or attempt or preparation to commit, an act of espionage, sabotage, sedition, or treason, or conspiring with or aiding or abetting another to commit such an act;

(5) Performing, or attempting to perform, duties or otherwise acting so as to serve the interests of another government to the detriment of the United States;

(6) Deliberate unauthorized disclosure of classified defense information;

(7) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General pursuant to Executive Order 10450 of April 27, 1953 (18 F. R. 2489; 3 CFR, 1953 Supp., p. 72), as amended (see 5 U. S. C. 631 note; also 18 F. R. 2741; 19 F. R. 655; 20 F. R. 816, 2093, 7201, 8163; 22 F. R. 8069);

(8) Serious mental irresponsibility evidenced by having been adjudged insane, or mentally irresponsible, or an incompetent, or a chronic alcoholic, or treated for serious mental or neurological disorders or for chronic alcoholism, without evidence of cure;

(9) Conviction of any of the following offenses under circumstances indicative of a criminal tendency potentially dangerous to the security of a strategic area containing military establishments: arson, unlawful trafficking in drugs, espionage, sabotage, treason, murder, kidnapping, blackmail, or sex offenses involving minors or perversion;

(10) Chronic alcoholism or addiction to the use of narcotic drugs without adequate evidence of rehabilitation;

(11) Illegal presence in the United States, its territories or possessions, having been finally subject to deportation order, or voluntary departure in lieu of deportation order, by the United States Immigration and Naturalization Service;

(12) Being the subject of proceedings for deportation or voluntary departure in lieu of deportation for any reasons which have not been determined in the applicant's favor;

(13) Conviction of larceny of military property of the United States, willful injury to or destruction of military property of the United States, fraudulent enlistment, impersonation of a commissioned officer of the United States or of any state or territory thereof, or any offense involving moral turpitude, except offenses, which, in the jurisdiction within which the conviction was obtained, are punishable by imprisonment for not more than one year or a fine of not more than one thousand dollars.

(c) *Aliens.* (1) Entry of aliens for employment or residence in an area entirely within the borders of a defense area is not authorized except when such entry would serve the interests of national defense, and then only for specified periods and under prescribed conditions.

(2) Entry of aliens for any purpose into areas over which the United States exercises sovereignty is further subject to requirements imposed by law for the obtaining of a United States visa. Naval authorizations for entry into areas covered by this part will not be issued to foreign nationals for purposes, places, or periods of time in excess of those stipulated in the visa.

(3) Alien spouses and bona fide dependents of U. S. citizen employees of

the United States and alien spouses and minor children of U. S. citizen permanent (i. e., domiciled) residents of such areas may, if otherwise qualified, be granted entry authorization or extension of entry authorization so long as the U. S. citizen sponsor or principal remains on duty or resident within the defense area.

(4) Aliens who are legal permanent residents of the United States are for purposes of this part to be afforded consideration similar to that provided United States citizens.

(d) *Renewals.* Entry authorizations having been granted and utilized may be renewed upon request at the expiration of the period for which the original entry was authorized, provided the justification for remaining in the area or for making a re-entry meets the criteria set forth in this part. It shall be the responsibility of every applicant to depart the defense area for which entry was authorized upon expiration of the time prescribed in the authorization, unless such authorization has been extended or renewed. Failure to comply herewith will be considered as evidence of violation of this part and may result in denial of future authorizations.

§ 761.7 *Basic controls*—(a) *General regulations.* Except for such persons, vessels, or aircraft as are authorized to enter under the provisions of a group authorization in this part or a person, vessel, or aircraft issued an individual authorization by an Entry Control Commander:

(1) No person, except persons aboard public vessels or aircraft of the United States, shall enter any defense area.

(2) No vessel or other craft, except public vessels of the United States, shall enter any naval defensive sea area or other defense area.

(3) No aircraft, except public aircraft of the United States, shall be navigated within any naval airspace reservation or other defense area.

(b) *Excluded persons*—(1) *Entry prohibited.* No excluded person, as defined in § 761.5 (e), shall enter any defense area. In a bona fide emergency which requires an excluded person's presence in or transit through a naval station which is also a defense area, the commanding officer of the station may grant permission to enter or transit subject to such restrictions as may be imposed by regulation or which may, in his discretion, be required. (This regulation is imposed in accordance with the Internal Security Act of 1950 (see 50 U. S. C. 781, 797) and Department of Defense notice of August 20, 1954, 19 F. R. 5446; and persons who willfully violate this regulation may be prosecuted and upon conviction be liable to a fine of not to exceed \$5,000.00 or to imprisonment for not more than one year or both.)

(2) *Carrying prohibited.* Except in a bona fide emergency and after being authorized by the appropriate local authority, no vessel or aircraft, except public vessels and aircraft of the United States, shall enter into or be navigated within any defense area while carrying any excluded person, as defined in § 761.5 (e), as passenger, officer or crew member.

(c) *Control of violators.* No commanding officer of a naval station shall

permit any vessel or aircraft which has entered the limits of his command by passing through a defense area without authorization to land, except in emergency, or, if permitted to land, to disembark passengers or cargo except as authorized by the appropriate Entry Control Commander. Commanding officers will take appropriate action to apprehend violators who come within their jurisdictions and request disposition instructions from the appropriate Entry Control Commander.

(d) *Trust Territory.* In addition to the Naval entry authorization, permission from the High Commissioner is required for all persons, except Trust Territory citizens and U. S. Government employees on official business, to enter part of the Trust Territory of the Pacific Islands which includes Rota Island, the Caroline Islands, and the Marshall Islands (less Eniwetok and Bikini Atolls, and Kwajalein Island).

(e) *Military areas.* Entries authorized under this part do not affect the authority of a commanding officer or other appropriate commander to impose and enforce proper regulations pertaining to movement into or within naval stations or other military or naval facilities.

(f) *Waiver prohibited.* No officer of the U. S. armed forces, except as authorized in writing by the Chief of Naval Operations, has authority to waive the requirements of this part, and any waiver must be in writing and signed by an authorized person.

SUBPART C—ENTRY AUTHORIZATION

§ 761.8 *General.* As indicated in § 761.7 certain persons, vessels and aircraft must be specifically authorized under the provisions of this part to enter defense areas. Provision is made for two types of authorizations:

(a) Group authorizations which authorize the entry of individual persons, vessels, or aircraft by reason of belonging to a group or class described in this part or in a special group authorization issued by the Chief of Naval Operations.

(b) Individual authorizations issued to a named or described person, vessel, or aircraft.

When entering or transiting a defense area each person, vessel, or aircraft must carry a valid individual authorization or satisfactory evidence of his or its current status as a member of an authorized group or class.

§ 761.9 *Entry Control Commanders.* The following commanders are designated Entry Control Commanders with authority to approve or disapprove individual entry authorizations for persons, vessels, and aircraft as indicated:

(a) *Chief of Naval Operations.* Authorizations for all persons, vessels, and aircraft to enter all defense areas.

(b) *Commander in Chief, U. S. Atlantic Fleet.* Authorizations for all persons, vessels, and aircraft to enter defense areas in the Atlantic.

(c) *Commander in Chief, U. S. Pacific Fleet.* Authorizations for all persons, vessels, and aircraft to enter all defense areas in the Pacific.

(d) *Commander, Caribbean Sea Frontier.* Authorizations for all persons and

U. S. registered private and Canadian public vessels to enter Guantanamo Bay Naval Defensive Sea Area, Guantanamo Bay Naval Airspace Reservation, Culebra Island Naval Defensive Sea Area, and Culebra Island Naval Airspace Reservation.

(e) *Commander, Alaskan Sea Frontier.* Authorizations for all persons and for U. S. registered private and Canadian public vessels to enter Kodiak Naval Defensive Sea Area, Kiska Island Naval Defensive Sea Area, and Unalaska Island Naval Defensive Sea Area.

(f) *Commander, Hawaiian Sea Frontier.* Authorizations for U. S. citizens and U. S. registered private vessels to enter Johnston Island, Midway Island, Kingman Reef, Kaneohe Bay Naval Defensive Sea Area, Pearl Harbor Defensive Sea Area, and that portion of the Trust Territory of the Pacific Islands east of 160 degrees east longitude. (See also paragraph (i) of this section.)

(g) *Commander, U. S. Naval Forces, Marianas.* Authorizations for U. S. citizens and U. S. registered private vessels to enter the Guam Island Naval Defensive Sea Area, the Guam Island Naval Airspace Reservation, the Trust Territory of the Pacific Islands, for U. S. citizens to enter the Bonin, Volcano, and Marcus Islands; and for Trust Territory vessels to enter the Guam Island Naval Defensive Sea Area.

(h) *Senior Naval Commander in Defense Area.* Emergency authorizations for persons and for aircraft in cases of emergency or distress. In all cases the Chief of Naval Operations, and, as appropriate, the Commander in Chief, U. S. Atlantic Fleet, or the Commander in Chief, U. S. Pacific Fleet, and other interested commands, shall be informed immediately of the nature of the emergency, action taken, and proposed action.

(i) *U. S. Coast Guard.* The U. S. Coast Guard regulates the movement of shipping within the Honolulu Harbor under the authority of Executive Orders 10173 of October 18, 1950 (15 F. R. 7005, 3 CFR, 1950 Supp., p. 140) and 10289 of September 17, 1951 (16 F. R. 9499; 3 CFR, 1951 Supp., p. 469); such shipping is considered to be under U. S. authorized supervision within the meaning of Executive Order 8987 of December 20, 1941 (6 F. R. 6675; 3 CFR, 1943 Cum. Supp., p. 1048). The Commandant, Fourteenth Naval District, as representative of the Secretary of the Navy, retains responsibility for security of the Honolulu Defensive Sea Area, as required by naval interest, and, as such, issues amplifying instructions relating to the Honolulu Defensive Sea Area.

§ 761.10 *Persons: group authorizations.* Persons in the following groups or classes, except persons who have been denied individual authorizations or who have been notified that their privileges under an individual or group authorization have been revoked, may enter the defense areas indicated without individual authorization.

(a) Persons aboard U. S. public vessels or aircraft.

(b) Military members or U. S. civil service employees of the Department of Defense when traveling on official orders

or leave papers, except that personnel traveling on leave may not enter the Trust Territory without an authorization from the appropriate Entry Control Commander and permission from the High Commissioner, and personnel traveling on leave may not enter the Saipan District or the Bonin-Volcano Islands without the prior approval of the Commander, U. S. Naval Forces, Marianas.

(c) U. S. ambassadors, cabinet members, elected U. S. Government officers and U. S. citizen civil service employees of the United States Government traveling on official orders on government business may enter defense areas as required by their orders.

(d) Dependents of military members of the Armed Forces and U. S. citizen dependents of U. S. citizen civil service employees of the United States Government traveling on orders and entering for the purposes of joining a principal permanently stationed in an area covered by this part may enter such area.

(e) U. S. Navy Technicians, U. S. Army Contract Technicians, or U. S. Air Force Contract Technicians, who are traveling on official travel authorizations on U. S. Government business, may enter defense areas as required by such authorizations. This group entry authorization does not include persons traveling on invitational travel orders.

(f) U. S. citizens who were born on Guam or who became citizens of the United States under the Organic Act of Guam (48 U. S. C. 1421-1424b), may enter the Guam Island Naval Defensive Sea Area and the Guam Island Airspace Reservation.

(g) Permanent indigenous residents of the Trust Territory of the Pacific Islands traveling on a properly visaed Trust Territory document may enter the Guam Island Naval Defensive Sea Area, the Guam Island Naval Airspace Reservation, and the Trust Territory of the Pacific Islands.

(h) Persons domiciled and currently residing in the Bonin Islands and traveling on a Bonin Island travel document, properly visaed when required, may enter the Guam Island Naval Defensive Sea Area, the Guam Island Airspace Reservation, and the Bonin Islands.

(i) Individuals on board any foreign public vessel or aircraft which has been granted diplomatic or other official authorization to enter an area covered by this part.

(j) Through passengers and bona fide regularly employed crew members, except excluded persons, on nonpublic vessels authorized to enter areas covered by this part. This does not include an authorization to disembark at a port contiguous to or within the areas covered in Part 761. Application for permission to disembark may be submitted to an Entry Control Commander having jurisdiction over the particular port.

(k) Through passengers and bona fide regularly employed crew members, except excluded persons, on nonpublic aircraft which is authorized to enter areas covered by this part provided such persons intend and certify in writing that they intend to continue on the flight on which embarked or on the first available onward transportation. Such per-

sons are subject to local regulations governing entry into or movement within military air stations or facilities. Application for permission to disembark may be submitted to an Entry Control Commander having jurisdiction over the air facility.

(1) U. S. citizen news correspondents and photographers when properly accredited by the Department of Defense to enter areas covered by this part except that special authorization is required to enter the restricted areas listed in § 761.4 (a).

§ 761.11 *Persons: Individual authorizations—(a) Application; filing.* Applications for authorization to enter defense areas shall be filed with one of the following:

- (1) Chief of Naval Operations.
- (2) Commander in Chief, U. S. Atlantic Fleet.
- (3) Commander in Chief, U. S. Pacific Fleet.
- (4) Any Naval Sea Frontier Commander.
- (5) Any Naval Fleet or Force Commander.
- (6) Any Naval District Commandant.
- (7) Any Naval Attache.

The Commander or Attache with whom the application is filed is responsible for taking such action on the application as he may be empowered to do or for forwarding the application to the nearest Entry Control Commander authorized by this part to take action thereon. Applications received in the United States and those received indicating that the applicant has resided in the United States for the major portion of ten years immediately prior to date of request will normally be forwarded to the Chief of Naval Operations for action. In all cases where the forwarding activity has information regarding the applicant or his employer, appropriate comment and/or recommendation for disposition will be included in the forwarding letter. The processing of applications of persons residing in the continental United States will be expedited if they are mailed direct to the Chief of Naval Operations.

(b) *Form.* (1) Applications for entry authorizations will be made on the standard form, Statement of Personal History, DD 398, which is available at most military installations. In addition to the information required by the form, an entry application shall include the following additional information under Item 20, "Remarks":

21. Purpose of proposed visit: (Detailed statement including names of principal persons, firms, or establishments to be visited)
22. Proposed duration of visit:
23. Estimated date of arrival:
24. Address to which authorization should be mailed:

In the event that a DD 398 form is not available, a locally produced form containing identical information, including the certification and signatures of applicant and witness may be utilized.

(2) Incomplete forms will be returned for completion.

(3) When time is of the essence, emergency applications may be forwarded by message to the appropriate

Entry Control Commander. Such messages shall include the following:

- (i) Name of applicant.
- (ii) Date and place of birth.
- (iii) Citizenship.
- (iv) Residence for last ten (10) years.
- (v) Employers and address for last ten (10) years.
- (vi) Results of Local Agency Check, if pertinent.
- (vii) Place to be entered and date of entry.
- (viii) Purpose of entry and duration of stay.
- (ix) Comments and/or recommendations of forwarding officer as appropriate.
- (x) A statement that a completed DD 398 or appropriate substitute has been mailed prior to the sending of the message.

(c) *Processing.* The Entry Control Commander empowered to issue entry authorizations shall upon receipt of an application take the following action:

(1) Initiate or conduct such investigation as may be required to establish facts upon which to make a determination that the entry of the applicant at the time and for the purpose indicated is or is not in accordance with the criteria set forth in § 761.6.

(2) Request additional information from the applicant if required, or

(3) Issue an entry authorization as requested or modified as circumstances require, or

(4) Deny the request and advise the applicant of his right to appeal, or

(5) Forward the application to the next superior in command together with a statement of the investigation conducted and the reason for forwarding and comments or recommendations as appropriate.

(d) *Authorizations.* Entry authorizations will state the purpose for which the entry is authorized and such other information and conditions as are pertinent to the particular authorization. Authorizations to enter and re-enter may be issued to resident U. S. citizens and be valid for a specified time not to exceed two years. Authorizations may be issued to U. S. citizens residing abroad and to aliens to enter and re-enter for a specified period of time required to accomplish the purpose for which the authorization was issued not to exceed one year.

§ 761.12 *Vessels: group authorizations.* Vessels or other craft in the following groups or classes, except vessels which have been denied individual authorization or notified that their privileges under an individual or group authorization have been revoked, may enter the defense areas indicated without individual authorization:

(a) U. S. public vessels, to enter all defense areas.

(b) U. S. private vessels which are: (1) under charter to the Department of Defense (including the Military Sea Transportation Service), or (2) operating under a contract or charter with the Department of Defense providing for the employment of such vessels, or (3) routed by a Naval Control of Shipping Office, or (4) employed exclusively in support of and in connection with a

Department of Defense construction, maintenance, or repair contract and whose crews carry individual entry clearances, to enter defense areas as authorized by the controlling Defense Department agency.

(c) Vessels of United States registry regularly engaged in trade between ports in the Trust Territory and Guam, and whose crews consist only of United States or Trust Territory citizens or persons holding individual entry permits, to enter Guam and the Trust Territory.

(d) Vessels registered and licensed in the Trust Territory of the Pacific Islands and manned by U. S. citizens or residents of the Trust Territory or the Bonin Islands, to enter Guam and the Trust Territory.

(e) Privately owned local craft, registered with and licensed by appropriate local United States Government agencies, and owned and operated by local inhabitants who have been granted authority, to enter the local naval defensive sea area at the discretion of the local commander.

(f) Foreign flag vessels traveling on diplomatic or other special clearance or for which special arrangements have been made under international agreements or treaties.

(g) Vessels operating under a group authorization issued by the Chief of Naval Operations.

(h) Vessels in distress, subject to local clearance and control by the senior officer present.

§ 761.13 *Vessels: individual authorizations—(a) Applications; form; filing.* Applications for authorization to navigate vessels within the limits of defense areas shall be filed with the cognizant Entry Control Commander by letter or telegram including the following information and any additional information that may be relative to the proposed operation:

- (1) Name of vessel.
- (2) Place of registry and registry number.
- (3) Name, nationality and address of operator.
- (4) Name, nationality and address of owner.
- (5) Gross tonnage of vessel.
- (6) Nationality and numbers of officers and crew (include crew list when practicable).
- (7) Number of passengers (include list when practicable).
- (8) Last port of call prior to entry into area for which clearance is requested.
- (9) Purpose of visit.
- (10) Proposed date of entry and estimated duration of stay.

(b) *Processing.* Applications for single entries or for multiple entries for a period not to exceed one year may be granted or denied by an Entry Control Commander. Applications for multiple entries for a period to exceed one year or for special group entries must be forwarded to the Chief of Naval Operations with appropriate comments and recommendations.

§ 761.14 *Aircraft: group authorizations.* Aircraft in the following groups or classes, except aircraft which have been denied individual authorization or notified that their privileges under an

individual or group authorization have been revoked, may enter the defense areas indicated without individual authorization:

(a) U. S. public aircraft to enter all defense areas.

(b) U. S. private aircraft which are under charter to the Department of Defense (including the Military Air Transport Service), or operate under a contract with the Department of Defense providing for the employment of such aircraft to overfly U. S. island positions and to land when proper authorization has been obtained from the Chief of Naval Operations for use of naval aviation facilities, to enter defense areas as authorized by the controlling Defense Department agency.

(c) Non-public aircraft of U. S. registry operating under the authority of the Secretary of the Interior to provide logistic support for the Trust Territory to fly over and land in the Trust Territory (except at Naval Air Station, Kwajalein, Eniwetok and Bikini Atolls) and the Guam Naval Airspace Reservation when proper authorization has been obtained from the Chief of Naval Operations to use naval aviation facilities on Guam.

(d) Foreign flag aircraft for which special arrangements have been made under international agreements or treaties.

(e) Aircraft operated by companies authorized by the Chief of Naval Operations to utilize the naval facilities on the island of Guam or in other defense areas for regular commercial activity, to enter the Guam Island Naval Airspace Reservation or other defense areas as authorized by the Chief of Naval Operations.

(f) Any aircraft in distress, subject to local control by the senior officer present.

§ 761.15 Aircraft: individual authorizations—(a) Special procedures. In addition to the entry authorization to enter or navigate within the defense area concerned, certain special procedures must be followed by aircraft:

(1) If U. S. Navy aviation facilities are to be used, prior authorization must be obtained from the Chief of Naval Operations.

(2) If U. S. Air Force aviation facilities are to be used, prior authorization must be obtained from the appropriate Air Force commander.

(3) Foreign public aircraft must obtain diplomatic clearance or clearance under applicable special agreements or treaties.

(b) *Application; form; filing.* Applications for authorization to navigate aircraft within the limits of defense areas shall be made by letter or telegram addressed to the Commander in Chief, U. S. Atlantic Fleet, or the Commander in Chief, U. S. Pacific Fleet, as appropriate. Copies of application letter shall be sent to the Chief of Naval Operations and the local commanders who are known to be concerned. Applications shall include the following information:

(1) Type and serial number of aircraft (the number of aircraft in flight if a mass movement is involved), nationality and name of registered owner.

(2) Name and rank of senior pilot.

(3) Number in crew.*

(4) Number of passengers and whether military or civilian; include name (and rank) of distinguished passengers.*

(5) Purpose of flight.

(6) Plan of flight route, including:

(i) Point of origin of flight and its destination.

(ii) Estimated dates and times of arrival and departure at all airspaces covered by this part including stops within the Trust Territory, when pertinent.

(7) Radio call signs of aircraft and radio frequencies available.

(8) Whether cameras are to be carried and whether they will be used.

(9) Whether arms are to be carried.*

(10) Whether authorization to land as indicated in paragraph (a) of this section has been obtained.*

Information on those items marked with an asterisk (*) need not be reported when the aircraft will only overfly the areas covered by this part.

(c) *Processing.* Applications for individual authorization for single entries or for multiple entries for a period not to exceed three months may be granted by an Entry Control Commander. Applications for multiple entries over a period to exceed three months and applications for group authorizations must be forwarded to the Chief of Naval Operations with appropriate comments and recommendations.

§ 761.16 Notice of action. All applicants will be kept advised of action being taken relative to the processing of applications. Individual applications which cannot be processed promptly (usually within ten working days) or whose applications must be forwarded to another office for processing will be notified of the anticipated delay and advised of the approximate time when action may be expected to be taken. Under no circumstances will a notice of disapproval include a statement of the reason therefor. Copies of all notices will be distributed to commands and Entry Control Commanders concerned. Copies of all notices of disapproval will be mailed to the Chief of Naval Operations concurrently with the mailing to the applicant.

§ 761.17 Revocation. Entry authorizations will be revoked by an Entry Control Commander upon the discovery of information which would have been grounds for denial of the initial request. Such revocation shall be confirmed in writing. No reason for revocation of the entry authorization will be given. When an authorization is revoked, a one-way permit will be issued as appropriate, to permit the ship, aircraft, or person to transit the defense area in order to depart from a contiguous area.

§ 761.18 Appeals. (a) Appeals may be filed with the Entry Control Commander who issued the denial or revocation. It shall contain a complete statement of the purpose of the proposed entry and a statement of reasons why the entry should be authorized, including a showing that the entry will be consistent with the purposes of national defense.

(b) Appeal letters shall be forwarded promptly to the next superior Entry Control Commander with an endorsement

setting forth the reasons for the denial or revocation and a recommendation as to the action to be taken by the superior.

(c) The superior may act on the appeal and notify the applicant of the decision, or he may forward the appeal to the next superior and notify the applicant of this referral.

(d) Final review may be had in appropriate cases in accordance with OPNAV (Office of the Chief of Naval Operations) Instruction 5420.18 of September 4, 1956.

SUBPART D—ADDITIONAL INSTRUCTIONS

§ 761.19 Inspection and search of vessels and other craft. The clearance of all vessels or other craft, other than public vessels of the United States, will be granted only on the condition that their owners, charterers, operators or masters:

(a) Consent to inspection and search of all vessels or other craft whenever the local naval commander considers such action necessary for military security of the area.

(b) Execute a "hold harmless" agreement under which no liability shall be incurred by the Navy Department, its agents or representatives for damage to vessels or other craft, their cargo, or for any demurrage charges which may arise out of or in connection with any inspection or search while in the exercise of due care.

§ 761.20 Naval defensive sea area closed between sunset and sunrise. Passage of any vessel into or out of the Guam Island Naval Defensive Sea Area between the hours of sunset and sunrise is prohibited, except when specifically permitted by the Commander, U. S. Naval Forces, Marianas.

§ 761.21 Compliance with laws and regulations. All persons, vessels and aircraft entering the Guam Island Naval Defensive Sea Area or the Guam Island Naval Airspace Reservation, whether or not in violation of Executive Order 8683 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as corrected by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 10341 of April 8, 1952 (17 F. R. 3143; 3 CFR, 1952 Supp., p. 68) shall be governed by such regulations and restrictions upon their conduct and movements as may be established by the Commander, U. S. Naval Forces, Marianas, whether by general regulation or by special instructions in any case.

§ 761.22 Apprehension of vessels, aircraft or persons. The Commander, U. S. Naval Forces, Marianas, shall take all practical measures to apprehend vessels, aircraft and persons violating the provisions of Executive Order 8683 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as corrected by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 10341 of April 8, 1952 (17 F. R. 3143; 3 CFR, 1952 Supp., p. 68) and shall hold each such violator in custody pending receipt of instructions from the Secretary of the Navy.

§ 761.23 Formulation of additional rules. The Commander, U. S. Naval

Forces, Marianas, shall establish and maintain such further rules and regulations, and shall issue such special instructions in each case, as he may deem necessary for carrying out the provisions of Executive Order 8683 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as corrected by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 10341 of April 8, 1952 (17 F. R. 3143; 3 CFR, 1952 Supp., p. 68).

§ 761.24 *Commander, U. S. Naval Forces, Marianas, designated local representative of Secretary of the Navy.* In all matters pertaining to the local administration of the Guam Island Naval Defensive Sea Area and the Guam Island Naval Airspace Reservation, the Commander, U. S. Naval Forces, Marianas, is hereby designated as the representative of the Secretary of the Navy, with full authority to enforce the provisions of Executive Order 8683 of February 14, 1941 (6 F. R. 1015; 3 CFR, 1943 Cum. Supp., p. 894) as corrected by Executive Order 8729 of April 2, 1941 (6 F. R. 1791; 3 CFR, 1943 Cum. Supp., p. 919) and Executive Order 10341 of April 8, 1952 (17 F. R. 3143; 3 CFR, 1952 Supp., p. 68) and all regulations issued pursuant thereto.

2. Section 765.6 is revised to read as follows:

§ 765.6 *Regulations for Pearl Harbor, Hawaii.* The Commander, Pearl Harbor Naval Shipyard, is responsible for prescribing and enforcing such rules and regulations as may be necessary for insuring security and for governing the navigation, movements, and anchorage of vessels in the waters of Pearl Harbor and in the entrance channel thereto. (37 Stat. 341, sec. 1, 62 Stat. 799; 33 U. S. C. 475, 18 U. S. C. 2152. E. O. 8143, 4 F. R. 2179, 3 CFR, 1943 Cum. Supp., p. 504)

(Sec. 6011, 70A Stat. 375; 10 U. S. C. 6011)

By direction of the Secretary of the Navy,

[SEAL] CHESTER WARD,
Rear Admiral, U. S. Navy, Judge
Advocate General of the Navy.

APRIL 10, 1958.

[F. R. Doc. 58-2825; Filed, Apr. 16, 1958; 8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries REVISION OF REGULATIONS

Basis and purpose. For the purpose of proper codification, these regulations, as contained in Subchapter F, are revised in their entirety as set forth below. The system of codification has been extensively revised. There are other major changes, but largely of an editorial nature. These are in addition to the annual changes to be effective in 1958, as discussed at the recent hearings, which are incorporated herewith.

This document is in two parts:

1. That part which represents the permanent basic regulations.

2. Temporary changes, which, by their own language, temporarily amend certain sections of the basic regulations and are self-terminating.

These changes shall become effective 30 days after publication in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

APRIL 15, 1958.

Part

- 101 Definitions.
- 102 General provisions.
- 103 Arctic area.
- 104 Bristol Bay area.
- 105 Alaska Peninsula area.
- 106 Aleutian Islands area.
- 107 Chignik area.
- 108 Kodiak area.
- 109 Cook Inlet area.
- 110 Resurrection Bay area.
- 111 Prince William Sound area.
- 112 Copper River area.
- 113 Bering River-Yakataga area.
- 114 Yakutat area.
- 115 Southeastern Alaska area.
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PART 101—DEFINITIONS

Sec.

- 101.1 Meaning of terms, abbreviations, and symbols.
- 101.2 Bureau.
- 101.3 Species of commercial fish.
- 101.4 Species of commercial shellfish.
- 101.5 Commercial fishing.
- 101.6 Personal use fishing.
- 101.7 Commercial fisherman.
- 101.8 Person.
- 101.9 Run.
- 101.10 Take.
- 101.11 Gear.
- 101.12 Legal gear.
- 101.13 Legal limit of fishing gear.
- 101.14 Types of legal gear.
- 101.15 Occupation of a trap site.
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- 101.18 Authorities.
- 101.19 Local representative.
- 101.20 Waters of Alaska.
- 101.21 Abbreviations and symbols.
- 101.22 Bag limit.

AUTHORITY: §§ 101.1 to 101.22 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 101.1 *Meaning of terms, abbreviations, and symbols.* For the purpose of the regulations in this part the terms, abbreviations, and symbols used in Subchapter F, unless required otherwise by the context, shall be as hereafter defined in this part. All regulations in Parts 101 through 130, except those under the headings "Personal Use Fishery," shall apply only to commercial fishing or operations.

§ 101.2 *Bureau.* The Bureau of Commercial Fisheries, United States Fish and Wildlife Service.

§ 101.3 *Species of commercial fish.* All those fishes in both fresh and salt water not declared to be game fishes by the Alaska Game Law and which are subjected to commercial fishing and which shall include but not be limited to the following species:

- Albacore (*Germo alalunga*).
- Cod (*Gadus macrocephalus*).
- Dogfish (*Squalus suckleyi*).
- Eulachon (*Thaleichthys pacificus*).

- Halibut (*Hippoglossus stenolepis*).
- Herring (*Clupea harengus pallasi*).
- Lingcod (*Ophiodon elongatus*).
- Rockfish (all species of the genera *Sebastes* and *Sebastes*).
- Sablefish (*Anoplopoma fimbria*).
- Salmon:
- Chum (*Oncorhynchus keta*).
- Coho (*Oncorhynchus kisutch*).
- King (*Oncorhynchus tshawytscha*).
- Pink (*Oncorhynchus gorbuscha*).
- Red (*Oncorhynchus nerka*).
- Sheefish (*Stenodus leucichthys*).
- Sole and Flounders (all species of the family *Pleuronectidae*).
- Whitefish (all species of the genus *Coregonus*).

§ 101.4 *Species of commercial shellfish.* All those marine species of mollusks and crustaceans which are subjected to commercial fishing and which shall include but not be limited to the following species:

- Abalone (species of the genus *Haliotis*).
- Clam:
- Butter (*Saxidomus giganteus*).
- Razor (species of the genus *Siliqua*).
- Little Neck (*Protothaca staminea*).
- Cockle (*Clinocardium nuttalli*).
- Crab:
- Dungeness (*Cancer magister*).
- King (species of the genus *Paralithodes*).
- Tanner (*Chionoecetes bairdii*).
- Oysters, Pacific (*Crassostrea gigas*).
- Shrimp (species of the genera *Pandalus*, *Pandalopsis* and *Crangon*).

§ 101.5 *Commercial fishing.* The taking or attempting to take of any species of fish or shellfish for the purpose of sale or barter or for ultimate use as an integral part of any economic enterprise. The taking of fish or shellfish for use as bait in commercial fishing operations shall be regarded as commercial fishing, as shall also be the taking of fish for use as feed for fur-bearing animals.

§ 101.6 *Personal use fishing.* The taking or attempting to take, of any species of fish or shellfish for purposes other than for sale or barter, including dog feed.

§ 101.7 *Commercial fisherman.* Any person who owns or operates any boat or fishing gear registered in accordance with § 102.2 of this subchapter.

§ 101.8 *Person.* Any person, firm, corporation, or association.

§ 101.9 *Run.* Any aggregation of a single species of fish having common limiting characteristics of space or time during the course of their migrations.

§ 101.10 *Take.* The aggregate catch of a single species of fish or shellfish captured within specific common limits of space or time.

§ 101.11 *Gear.* Any type of fishing apparatus.

§ 101.12 *Legal gear.* That gear described in § 101.14 and no modifications in design or manner of operation which permits or assists in operating a particular form of gear in a manner contrary to its basic design are permitted.

§ 101.13 *Legal limit of fishing gear.* The maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats, in any particular regulatory area, district, or section.

§ 101.14 *Types of legal gear*—(a) *Trap*. Any fixed device operated for the purpose of or resulting in the impoundment of live fish, but not including a hammerhead trap or any modification thereof.

(b) *Gill net*. Any net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork and lead lines and fished from the surface of the water. The term "stretched measure" shall be deemed to be the average of the longer distances between diagonally opposite knots in any series of ten meshes stretched when wet after use under 5 pounds of tension applied to each mesh.

(c) *Set net*. Any gill net that has been set, staked, anchored, or otherwise fixed.

(d) *Drift net*. A free floating gill net.

(e) *Purse seine*. Any floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through rings attached to the lead line.

(f) *Beach seine*. Any seine not capable of being pursed as described in paragraph (e) of this section.

(g) *Troll*. Lines or lures with baited hooks which are drawn through the water.

(h) *Fish wheel*. A fixed rotating device designed to capture fish in fresh water.

(i) *Trawl*. Any bag-shaped net towed through the water to capture fish or shellfish.

(j) *Pot*. A trap designed for capturing crabs or shrimp.

(k) *Ring*. A device consisting of mesh stretched over a flat frame used in catching Dungeness crabs.

(l) *Long line*. A stationary buoyed or anchored line with lures or baited hooks attached.

(m) *Shovel*. A hand-operated device for digging clams or cockles.

§ 101.15 *Occupation of a trap site*. The care, service and use of a trap.

§ 101.16 *Permit holder for trap site*. A person who has obtained specific permission from the Department of the Army to occupy a given trap site.

§ 101.17 *Depth of net*. The perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed.

§ 101.18 *Authorities*—(a) *Secretary*. The Secretary of the Department of the Interior.

(b) *Director*. The Director of the Bureau of Commercial Fisheries.

(c) *Regional Director*. The Regional Director of the Bureau of Commercial Fisheries for Alaska.

§ 101.19 *Local representative*. The nearest or most accessible officer of the Bureau of Commercial Fisheries, or any person designated by the Regional Director of the Alaska Region to perform specific functions of the Bureau.

§ 101.20 *Waters of Alaska*. For the purpose of the regulations in this part, the term "waters of Alaska" north and

west of the International Boundary at Dixon Entrance are defined as including those extending three miles seaward (a) from the coast, (b) from lines extending from headland to headland across all bays, inlets, straits, passes, sounds and entrances and (c) from any island or groups of islands, including the islands of the Alexander Archipelago, and the waters between such groups of islands and the mainland.

§ 101.21 *Abbreviations and symbols*. (a) a. m. and p. m. indicates standard time antemeridian and postmeridian, respectively.

(b) The symbols °, ', and " shall indicate degrees, minutes, and seconds, respectively, of longitude or latitude, based on the North American datum of 1927.

(c) Lat. and long. shall indicate latitude and longitude, respectively.

(d) E. indicates east, N. indicates north, W. indicates west, and S. indicates south.

§ 101.22 *Bag limit*. Maximum take permitted per person per day for personal use.

PART 102—GENERAL PROVISIONS

GENERAL

Sec.	
102.1	License required of salmon net fishermen.
102.2	Registration of fishing boats and gear.
102.3	Identification of stationary fishing gear.
102.4	Reports required of operators.
102.5	Inspection of fishery establishments.
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102.7	Driving salmon downstream prohibited.
102.10	Types of gear permitted, salmon fishing.
102.11	Salmon fishing boats and gear.
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102.14	Salmon trap restrictions.
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HERRING FISHERY

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SHELLFISH FISHERY

102.73	Clam fishing gear.
102.74	Minimum sizes of clams.
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102.82	Minimum sizes of male crabs.
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MODIFICATION OF RESTRICTIONS

102.99	Modification of closed seasons and imposition of additional restrictions.
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AUTHORITY: §§ 102.1 to 102.99 issued under sec. 1, 43 Stat. 404, as amended; 48 U. S. C. 221.

§ 102.1 *License required of salmon net fishermen*. (a) No person shall fish for, assist in fishing for, or be a member of a crew fishing for salmon, for commercial purposes, with any form of net in any of the waters of Alaska without first having obtained a license from a local representative of the Bureau, or any person designated by the Regional Director, to perform specific functions of that Bureau. Such license shall be valid:

(1) Upon completion of a full and accurate application on a form furnished for that purpose.

(2) For the calendar year of issuance.

(3) Within any single registration area (as set forth in § 102.2) of his choice, the code letter of which shall appear on the face of the license, and for no other: *Provided*, That upon request, the Regional Director may permit the license to be transferred to another registration area for good cause shown, but only after a determination by him, in each case, that such transfer will not jeopardize proper conservation of the salmon runs in the second area. Such transfer, when granted, shall automatically invalidate the license in the previously designated area.

(b) No person shall obtain, or attempt to obtain, more than one license during any calendar year.

(c) Licenses shall be kept immediately available at all times during fishing operations and shall be shown upon request to any authorized representative of the United States Fish and Wildlife Service or of the United States Coast Guard.

§ 102.2 *Registration of fishing boats and gear*. Except as hereinafter provided, no boat nor unit of fishing gear shall be used in commercial fishing unless and until it shall have been properly registered with a local representative of the Bureau for the initial registration area of intended operation (as hereinafter defined) in accordance with provisions of this section. Any person desiring to register any boat or unit of fishing gear shall furnish to the said local representative full and accurate information as to the size, type, and identity of boat, number of fishermen in crew, description of gear, and the fishery (salmon, herring, crab, etc.) in which such gear and boat is intended to be used. A Bureau registration number shall be assigned to each boat and unit of fishing gear.

(a) Each salmon fishing net, and each boat intended to be used with such net shall be registered not later than 30 calendar days prior to the opening of the fishing season. No salmon fishing net registered for one registration area may thereafter be used in any other registration area during that calendar year, nor may any boat registered to fish for salmon with a net or nets in one registration area be used to fish for salmon with a net or nets in any other registration area during that calendar year: *Provided*, That late registration or transfer of registered nets or boats to another registration area may be permitted by the Regional Director upon a determination that (1) conservation of the salmon runs will result therefrom, or (2) conservation of the salmon runs will not be adversely affected and such a transfer is justified upon the grounds of hardship or for other valid reasons.

(b) All other fishing gear and boats shall be registered for the calendar year at any time prior to use in commercial fishing in the registration area of intended operation. Prior to transfer to another registration area, intention to transfer shall be reported to the local representative of the Bureau: *Provided*, That this section shall not apply to fish-

ing gear or boats used solely in fishing for halibut.

(c) Each registration area shall be assigned a code letter. Registration areas are defined as follows:

Code letter: Registration area
 A—Southeastern Alaska area.
 D—Yakutat area and Yakataga district of the Bering River-Yakataga area.
 E—Prince William Sound area; Copper River area; Bering River-Yakataga area.
 H—Cook Inlet area; Resurrection Bay area.
 K—Kodiak area.
 M—Aleutian Islands area; Alaska Peninsula area; Chignik area.
 T—Bristol Bay area; and after July 31, the Northeast district of the Alaska Peninsula area.
 Y—Yukon district of the Arctic area.

(d) Evidence of proper registration shall be kept immediately available at all times during fishing operations and shall be shown upon request to any authorized representative of the United States Fish and Wildlife Service or the United States Coast Guard.

(e) Registration plates shall be displayed in a prominent place on the port side of the boat or on the face of the trap. Permanent identification plates and annual validating tabs will be provided free. Lost plates must be reported immediately and will be replaced at a charge of \$5.00 upon application to the Regional Director.

§ 102.3 *Identification of stationary fishing gear.* All persons, companies, or corporations owning, operating, or using any set net, trap, or fish wheel shall place in a conspicuous place on or near said trap, set net, or fish wheel the name of the person, company, or corporation owning, operating, and using same, together with a permanently assigned Bureau registration number. Numbers shall be at least 6 inches in height with lines at least 1 inch wide and shall be painted in black on a white background.

§ 102.4 *Reports required of operators.* Each buyer or processor of fish or shellfish shall, each season:

(a) Furnish to the local representative of the Bureau, prior to operating in any regulatory fishing area, a written statement of intention to operate and a description of the nature, extent, and location of the operation.

(b) Report all individual receipts of fish and allied data as required by the Director of the Bureau or his authorized representative.

(c) Submit report of operations on statistical forms provided for that purpose at the close of the season. Reporting responsibility, where in question, rests with the final buyer or dealer who handles the fish within the Territory.

(d) Report, for statistical purposes, immediately in detail any disposition of fish or shellfish not processed within the statutory 48-hour time limitation.

(e) Any report required by this section must be complete and accurate. Records must be maintained at least one year after all required reports have been furnished to the Bureau.

§ 102.5 *Inspection of fishery establishments.* For purposes of inspection, representatives of the Department shall

have at all times free and unobstructed access to all canneries, salteries, and other fishing establishments, and to all hatcheries.

§ 102.6 *Explosives and poison prohibited.* The use of any explosive or poison in the taking or killing of fish or shellfish is prohibited.

§ 102.7 *Driving salmon downstream prohibited.* The driving of salmon downstream or the causing of salmon to go outside the protected area at the mouth of any stream is prohibited.

§ 102.10 *Types of gear permitted, salmon fishing.* In fishing for salmon all forms of gear other than drift gill nets, set nets, traps, purse seines, beach seines, fish wheels, trolling apparatus, hand lines, rods, spears, and gaffs are prohibited at all times.

§ 102.11 *Salmon fishing boats and gear.* No salmon seine boat or trolling boat shall operate, assist in operating, or have aboard either it or on any boat towed by it, more than one legal limit of fishing gear in the aggregate: *Provided*, That (a) where the use of leads is permitted, a purse seine boat may have or use not to exceed one lead of legal length and depth without purse rings attached and with mesh at least 7 inches stretched measure between knots, (b) a trolling boat may have or use for taking bait, one gill net with mesh not more than 2½ inches stretched measure between knots, made of not greater than number 20 gill-net thread, and not exceeding 10 fathoms in length and 100 meshes in depth, and (c) unhung gear sufficient for mending purposes may be carried aboard.

§ 102.12 *Salmon gill net restrictions.* (a) The trailing of gill net web is prohibited at any time or place where fishing is not permitted, (b) Set nets must be removed from the water during any closed period.

§ 102.13 *Salmon troll restrictions.* Not more than 4 trolling lines shall be operated by any boat.

§ 102.14 *Salmon trap restrictions—*
 (a) *Limitation on increases of individual trap site operations.* No person shall be permitted to increase the number of trap sites which he occupies over the number occupied in the preceding season if such increase would result in his occupation of more than 10 sites. The Secretary or his authorized representative may, however, in exceptional cases authorize such an increase for good cause shown. Any trap site occupied in violation of this section will be closed.

(b) *Operation of trap site by permit holder.* No person shall be allowed to occupy, lease, or assign a trap site who in the previous year held a permit for a trap site and did not himself occupy such site but instead leased or assigned such site to another person under arrangements by which the permit holder did not bear all or a substantial part of the expenses and financial risk involved in the installation, care, service, and use of the trap. The Secretary or his authorized representative may, however, in exceptional cases authorize occupation of such site for good cause shown. Any

trap site occupied, leased, or assigned in violation of this section will be closed.

(c) *Trap limited to two spillers.* No trap shall have more than two spillers.

(d) *Traps must be ineffectual prior to open season.* In any prescribed fishing area prior to the first date when salmon traps may be operated in any calendar year, no trap or any part thereof, whether under construction or after completion, shall be so arranged or adjusted as to prevent the free and unobstructed passage at all times of all fish.

(e) *Traps to be made inoperative within 24 hours after close of season.* Within 24 hours after the close of the last seasonal fishing period in which traps may be operated in any calendar year, the wire on the entire long wall of the small heart from the pot tunnel to the first corner of both sides shall be cut down and any lead within 50 feet of the small heart gap shall be cut down. Within 48 hours after any such season (a) the tunnels from pots to spillers of all traps shall be entirely disconnected, and (b) the spillers of all driven traps shall be raised to within 4 feet of the capping and the spillers of floating traps to within 4 feet of the surface. With respect to traps not provided with spillers, the requirement with regard to spillers shall apply to the pots. This requirement shall not apply to traps, the operation of which has been temporarily suspended.

(f) *Method of closing salmon traps.* During all periods when fishing is prohibited, the heart walls of salmon traps shall be lifted or lowered in accordance with the method prescribed by section 5 of the act of June 6, 1924, and the tunnels from hearts to pots shall be closed in the following manner:

(1) *Floating traps.* Poles shall be permanently secured to the webbing at each side of the mouth of the pot tunnel and shall extend from the tunnel floor to a height at least four feet above the water. A draw line shall be reeved through the lower ends of both poles and the top of one, and the upper end of this line shall be spliced to a length of chain. The two tunnel walls must be overlapped as far as possible across the pot gap and the draw line must be pulled tight so as to completely close the bottom of the tunnel. The pole on the right side of the pot gap, as viewed from the shore, must be painted bright red above water and the pole on the left bright green. Serially numbered seals issued by the Bureau shall be affixed around the top rib lines and webbing of both tunnel walls next to each pole and the link of the chain must be included in one of the seals. Seals must be attached in such manner that the trap cannot be fished without breaking them.

(2) *Stationary traps.* A draw line shall be secured to the pot wall at a depth equal to that of the bottom of the tunnel and at least 12 inches from the edge of the pot gap; shall be reeved through rings fastened at intervals of 4 feet or less on the vertical rib line along the mouth end of the opposite tunnel wall; and shall be spliced at its upper end to a length of chain. The tunnel shall be pulled to one side of the pot gap

sufficiently to overlap the pot wall a minimum of 12 inches and the draw line shall be pulled tight and secured by looping its chain around the capping. Serially numbered seals issued by the Bureau shall be affixed, one to seal the tunnel webbing to the pot wall and another to seal the loop of chain around the capping. Seals must be attached in such a manner that the trap cannot be fished without breaking them.

(g) *Limitation on salmon traps.* During 1958 the number of salmon traps operated in Alaska will not exceed a total of 246.

§ 102.24 *Closed areas near salmon streams.* (a) In accordance with the authority contained in section 1 of the act of June 18, 1926 (44 Stat. 752, 48 U. S. C. 221-224), as amended, commercial fishing is prohibited at all times between the exposed tideland banks of any salmon stream, within 500 yards of the terminus as defined herein, of any such stream and within such greater distances from such terminus as may be specified in regulations having particular application to designated streams or areas. For the purpose of the regulations in this part the word "terminus" shall mean a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream.

(b) For the purposes of section 3 of the act of June 6, 1924 (43 Stat. 464; 48 U. S. C. 233), as amended, the mouth of any salmon creek, stream or river is determined to be at a line drawn between the extremities of its banks at mean low tide. The facts as to the location of any such line shall be ascertained from time to time by the Director of the Bureau or such other persons as may be designated by the Director and in accordance therewith the mouth of such creek, stream or river shall be appropriately marked and such marking shall be final.

HERRING FISHERY

§ 102.51 *Gear—(a) Traps prohibited.* Fishing for herring by means of any trap is prohibited. This does not apply to pounds used primarily to retain herring alive over extended periods and which are filled by other gear or by infrequent opening of the pound itself.

(b) *Trawls prohibited.* The use of trawls is prohibited.

(c) *Size of mesh, herring seines.* No herring seine shall have mesh less than 1½ inches stretched measure between knots.

§ 102.52 *Obstructions.* No net or other obstruction shall be placed across the entrance to any lagoon or bay, which will prevent free passage of herring at all times.

§ 102.56 *Disposal of herring offal.* The dumping of offal or dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

BOTTOM FISH FISHERY

§ 102.61 *Bottom fish fishery.* The size, character and operation of trawls in Alaskan waters for the taking of bottom fish are limited as follows:

(a) *Otter trawls having mesh smaller than 5 inches stretched measure between knots in the bag and 6 inches stretched measure between knots in the wings are prohibited.*

(b) *The use of any devices attached to the foot-rope or elsewhere, such as chain "ticklers," is prohibited.*

(c) *The use of otter trawls in any area which the International Pacific Halibut Commission has found to be populated by small immature halibut and accordingly has been closed to all halibut fishing, is prohibited.*

§ 102.62 *Reports.* All operators of otter trawls shall maintain a running log on forms furnished showing date, type and size of mesh of trawl used, each locality fished, the time and duration of each tow, and the estimated poundage and number or average weight of each species caught. Such logs shall be available for inspection by representatives of the Fish and Wildlife Service at any reasonable time, and duplicate copies shall be transmitted to the Fish and Wildlife Service at the end of each trip.

SHELLFISH FISHERY

§ 102.73 *Clam fishing gear.* No species of clam may be taken by other than a shovel.

§ 102.74 *Minimum sizes of clams.* (a) *Razor clams:* 4½ inches in total length of shell.

(b) *Butter clams:* 2½ inches in total length of shell.

Any undersized clams taken shall be replanted alive in the beach immediately.

§ 102.77 *Crab fishing gear.* (a) *Dungeness crabs* shall be taken only with pots or rings.

(b) *King crabs* shall be taken only with pots or trawls.

§ 102.82 *Minimum sizes of male crabs.* (a) *Dungeness:* 7 inches in greatest width of shell.

(b) *King:* 6½ inches in greatest width of shell.

§ 102.83 *Soft-shell, female and undersized crabs.* Soft-shell, female, and undersized crabs may not be taken and any inadvertently caught shall be returned to the water immediately with a minimum of injury.

PERSONAL USE FISHERY

§ 102.92 *Restrictions.* (a) *Fishing for, taking, or molesting any fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert, or other artificial obstruction except in the Katmai National Monument where fishing shall be in accordance with National Park Service regulations.*

(b) *Prohibited with commercial gear; exception:* Within any regulatory area, district or section, except in the Bristol Bay area, all fishing for personal use with gill net, seine, or trap shall be subject to the laws and regulations governing commercial fishing during the period starting 48 hours before the opening of a commercial season for such gear and continuing until 48 hours after its close: *Provided,* That bona fide personal use

fishing will be permitted at all times on the Kuskokwim River.

(c) *Personal use gear:* The taking of salmon is prohibited in fresh water by means of a—

(1) Multiple hook or hooks to which a following weight or object is attached.

(2) Multiple hook or hooks with gaps between points and shank larger than ¼ inch when not attached to a plug, spoon, spinner, or artificial lure.

(3) Plug, spoon, spinner or artificial lure having single or multiple hooks with gap between point and shank larger than ½ inch.

(4) Single hook with gap between point and shank larger than ½ inch.

MODIFICATION OF RESTRICTIONS

§ 102.99 *Modification of closed seasons and imposition of additional restrictions.* The Secretary from time to time may shorten, lengthen, or reopen for limited periods any closed season and impose further restrictions on the means, methods, and areas of fishing and on the catch of fish otherwise permitted to be taken.

PART 103—ARCTIC AREA

Sec.	Definition.
103.1	SALMON FISHERY
103.2	Definitions, fishing districts.
103.5	Seasons.
103.10	Gear restrictions.
103.11	Aggregate length of gill nets.
103.12	Size of mesh and depth of gill nets.
103.13	Marking of gill nets.
103.24	King salmon quotas.

PERSONAL USE FISHERY

103.91 Weekly closed period.

AUTHORITY: §§ 103.1 to 103.91 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 103.1 *Definition.* The Arctic area includes all waters of Alaska between Demarcation Point and Cape Newenham.

SALMON FISHERY

§ 103.2 *Definitions, fishing districts—(a) Northern district.* All waters from Demarcation Point to Point Hope.

(b) *Kotzebue district.* All waters from Point Hope southward to Cape Prince of Wales.

(c) *Port Clarence district.* All waters from Cape Prince of Wales southward to Cape Douglas.

(d) *Norton Sound district.* All waters from Cape Douglas southward to a true east-west line through the westernmost point of Stuart Island.

(e) *Yukon district.* All waters of the Yukon River and all coastal waters from a true east-west line through the westernmost point of Stuart Island southward to 62° N. lat.

(f) *Kuskokwim district.* All waters of the Kuskokwim River and all coastal waters from 62° N. lat. southward to Cape Newenham.

§ 103.5 *Open season.* Fishing is prohibited except from 6 a. m., June 2 to 6 p. m. July 31.

§ 103.10 *Gear restrictions.* Fishing is prohibited except with gill nets: *Provided,* That in the Yukon district such

nets may not have mesh less than 8½ inches stretched measure; And provided further, That fish wheels may be used in the Yukon and Kuskokwim districts.

§ 103.11 *Aggregate length of gill nets.* The aggregate length of gill nets on or in use by any salmon fishing boat shall not exceed 150 fathoms, hung measure; Provided, That in the Kuskokwim district the aggregate length of drift gill nets on or in use by any salmon fishing boat shall not exceed 45 fathoms, hung measure and the aggregate length of set nets in use by any individual shall not exceed 25 fathoms, hung measure.

§ 103.12 *Size of mesh and depth of gill nets.* King salmon gill nets shall have a mesh of at least 8½ inches stretched measure and red salmon gill nets shall have a mesh of at least 5½ inches stretched measure. No red salmon gill net shall be over 28 meshes deep.

§ 103.13 *Marking of gill nets.* Each drift gill net in operation shall have a suitable bright red keg, buoy or cluster of floats at each end which shall be plainly and legibly marked with the initials of the operator, and bright red double floats shall be attached to the cork line at 25-fathom intervals, except that the 25-fathom interval requirement shall not apply in the Kuskokwim district.

§ 103.24 *King salmon quotas.* In any calendar year the take of king salmon shall not exceed the following:

(a) *Yukon district.* 50,000 fish below the mouth of the Anuk River; 10,000 fish between the mouths of the Anuk and Anvik Rivers; and 5,000 fish above the mouth of the Anvik River.

(b) *Kuskokwim district.* 3,000 fish below the mouth of the Aniak River, and 3,000 fish above the mouth of that river.

PERSONAL USE FISHERY

§ 103.91 *Weekly closed period.* In the Yukon district, fishing for, taking or molesting salmon, by any means, or for any purpose, is prohibited between 6 p. m. Saturday and 6 a. m. Monday of each week, except after 48 hours following the close of commercial fishing in any quota subdistrict.

PART 104—BRISTOL BAY AREA

Sec.
104.1 Definition.

SALMON FISHERY

104.2 Definitions, fishing districts.
104.3 Registration.
104.5 Seasons.
104.9 Weekly closed periods.
104.10 Gear restrictions.
104.11 Aggregate length and operation of drift gill nets.
104.12 Size of mesh and depth of gill nets.
104.13 Marking of gill nets.
104.14 Marking of boats.
104.15 Aggregate length and operation of set nets.
104.18 Maximum length of motor boats.
104.25 Minimum distance between units of gear.
104.34 Closed waters.

PERSONAL USE FISHERY

104.90 Seasons, salmon.

AUTHORITY: §§ 104.1 to 104.90 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 104.1 *Definition.* The Bristol Bay area includes all waters of Alaska in Bristol Bay east of a line from Cape Newenham to a point 3 statute miles south of Cape Menchikof.

SALMON FISHERY

§ 104.2 *Definitions, fishing districts.* Fishing, except trolling, is prohibited except within the following-described districts:

(a) *Nushagak district.* Waters of Nushagak Bay within a line between the white Coast and Geodetic Survey markers located near Nichols Hills and Etolin Point, respectively.

(b) *Kvichak-Naknek district.* Waters of Kvichak Bay within a line from a point at 58°33' N. lat., 157°20' W. long., to a point at approximately 58°44'18" N. lat., 157°40' W. long.

(c) *Egegik district.* Waters bounded by a line from Cape Chichagof at 58°20' N. lat., to a point 3 miles due west, thence to a point 2 miles due west of the outer buoy marking the entrance to the Egegik River, thence to a point 3 miles offshore at 58° N. lat., thence due east to the shoreline.

(d) *Ugashik district.* Waters bounded by a line from 3 miles north of Cape Greig light to a point 3 miles due west, thence to a point 2 miles due west of the outer buoy marking the entrance to the Ugashik River, thence to a point 3 miles due west of Cape Menchikof, thence to the southern terminus of the area at a point 3 miles south of Cape Menchikof.

(e) *Togiak district.* All waters north of a line from Right Hand Point to Cape Pierce.

§ 104.3 *Registration.* No fishing by means of any gear will be permitted unless and until the same has been registered with the local representative of the Fish and Wildlife Service for the district where such gear is to be used. All units of gear intended to be used in fishing must be registered in the respective districts by not later than 6 p. m. of the Friday immediately preceding the week in which such gear is to commence fishing for the season or prior to a change of districts. After the close of registration at 6 p. m. each Friday, no additions to or changes in registration will be permitted.

§ 104.5 *Seasons.*—(a) *Nushagak district.* Fishing except trolling is prohibited prior to 12 noon June 2, and after 12 noon August 30.

(b) *Kvichak-Naknek district.* Fishing except trolling is prohibited prior to 12 noon June 2, and after 12 noon August 30.

(c) *Egegik district.* Fishing except trolling is prohibited prior to 12 noon June 2, and after 12 noon August 30.

(d) *Ugashik district.* Fishing except trolling is prohibited prior to 12 noon June 2, and after 12 noon August 30.

(e) *Togiak district.* Fishing except trolling is prohibited prior to 12 noon June 2, and after 12 noon August 30.

§ 104.9 *Weekly closed periods.* (a) In the period June 23 to July 26, the statutory weekly closed period of 36 hours is extended so as to limit fishing to the number of days per week set out in the following table, wherein the number of

days of fishing is governed by the total number of units of gear registered for fishing in the respective districts as of 6 p. m. of the Friday immediately preceding the week in which fishing is permitted.

Units of gear by district				Days of fishing per week
Naknek-Kvichak	Nushagak	Egegik	Ugashik	
434	434	227	113	1
282-333	282-333	162-225	83-112	1.5
267-381	267-381	114-161	69-82	2.0
229-266	229-266	97-113	53-69	2.5
191-228	191-228	81-96	45-52	3.0
153-190	153-190	65-80	37-44	3.5
133-152	133-152	57-64	34-36	4.0
132	132	56	33	5.0

(b) For the purposes of this section, a unit of gear is considered to be one 150-fathom drift gill net as fished from a two-man boat. When the allowable fishing time is less than 2 days per week, fishing will commence at 12 noon on Monday and will be continuous thereafter for the allowable period. When the allowable fishing time is between 2 days and 4 days, fishing will commence at 9 a. m., on Monday and at 9 a. m., on Thursday and will be continuous thereafter for one-half of the total time allowed. When the allowable fishing time is 5 days per week, fishing will commence at 12 noon Monday and be continuous for the allowable period. As used in this section, "day" refers to a period of 24 hours.

(c) Announcement of the total number of registrations for each district will be made locally within 18 hours after the close of registration and by publication in the FEDERAL REGISTER.

(d) From June 2 to 21, inclusive, in the Nushagak district the weekly closed period is extended to include the period from 12 noon Friday to 12 noon Monday.

§ 104.10 *Gear restrictions.* (a) Fishing is prohibited, except with drift or set gill nets or troll gear.

(b) The use of smelt nets is prohibited in localities where young salmon are migrating.

§ 104.11 *Aggregate length and operation of drift gill nets.* (a) No fishing boat shall operate, assist in operating, or have aboard either it or any boat towed by it, more than 150 fathoms in the aggregate.

(b) In the period from June 23 to July 25: (1) No gill net registered as a set gill net may be used as a drift gill net, nor may any gill net registered as a drift gill net be used as a set net; (2) No fisherman licensed to operate or assist in operating a drift gill net shall operate or assist in operating a set gill net; and no fisherman licensed to operate or assist in operating a set gill net shall operate or assist in operating a drift gill net; (3) During any weekly open fishing period the picking of any drift gill net shall be deemed to be a part of the fishing operation and shall be performed only on a registered net by the fishermen licensed to operate a particular legal limit of gear; (4) The operation of each particular legal limit of set gill net shall be performed or assisted by the fisherman in whose name it is registered.

§ 104.12 *Size and mesh and depth of gill nets.* (a) Stretched measure shall not be less than 8½ inches prior to 12 noon June 24, and shall not be less than 5½ inches from 12 noon June 23 to 12 noon July 25.

(b) Depth of gill nets shall not exceed 28 meshes.

§ 104.13 *Marking of gill nets.* Each drift gill net in operation shall have a suitable bright red keg, buoy, or cluster of floats at each end which shall be plainly and legibly marked with the permanent Bureau registration number, and bright red double floats shall be attached to the cork line at 25-fathom intervals.

§ 104.14 *Marking of boats.* Each gill net fishing boat in operation shall display its Bureau registration number in permanent symbols at least 12 inches in height.

§ 104.15 *Aggregate length and operation of set nets.* (a) The aggregate length of set nets used by any individual shall not exceed 50 fathoms hung measure.

(b) Set nets shall be operated in substantially a straight line.

(c) Every operator of a set net shall furnish to the local representative of the Bureau in advance of the fishing season a sworn statement that he is a citizen of the United States and had resided continuously in the area embracing Bristol Bay and the arms and tributaries thereof for a period of at least two years immediately preceding the opening date for fishing.

(d) Fishing with set nets shall be limited to beach areas between high and mean low water marks, exclusive of bars or flats that at low tide are not connected by exposed land to the shore or places not covered at high tide.

§ 104.18 *Maximum length of motor boats.* No motor-propelled boat used in drift gill-net fishing shall exceed 32 feet in length overall.

§ 104.25 *Minimum distance between units of gear.* The minimum operating distance at any time between any part of one net and any part of another net shall be not less than 300 feet, except that the operating distance between any part of one set net and any part of another in the Nushagak district shall be not less than 450 feet.

§ 104.34 *Closed waters.* Fishing is prohibited as follows:

(a) *Nushagak Bay.* North of a line from a marker 2 statute miles below Bradford Point to a marker on the opposite shore at Nushagak Point.

(b) *Kvichak Bay.* Northwest of a line from Graveyard Point light to a point on the opposite shore at 58°53'22" N. lat., 157°04'16" W. long.

(c) *Naknek Bay.* Within 1 statute mile of the terminus of the Naknek River.

(d) *Egegik Bay.* East of a line from a marker 250 yards east of Libby, McNeill & Libby's cannery building to a marker on the opposite shore 175 yards east of the Alaska Packers Association's cannery building.

(e) *Ugashik River.* Southeast of a line extending at right angles across the river 500 yards below the terminus of King Salmon River, except by set nets in the area extending from a point 200 yards north of the Wingard Packing Company cannery to a point 1,200 yards north of that cannery.

PERSONAL USE FISHING

§ 104.90 *Open season, salmon.* Fishing for personal use is permitted (a) prior to noon June 21 and after noon July 27, (b) in the Togiak district, at any time with set nets only, (c) in the Kvichak-Naknek, Egegik and Ugashik districts in waters open to commercial fishing, from 6 a. m. to 6 p. m. each Wednesday with set nets only, (d) in the Nushagak district, (1) at any place over 12 miles upstream from waters open to commercial fishing, (2) from 6 a. m. to 6 p. m. each Wednesday with set or anchored gill nets only, and (3) between Snag Point and Bradford Point with set nets not exceeding 15 fathoms in length, if previously registered with the local representative of the Bureau.

PART 105—ALASKA PENINSULA AREA

Sec.	Definition.
105.1	SALMON FISHERY
105.2	Definitions, fishing districts.
105.5	Seasons.
105.9	Weekly closed periods.
105.10	Gear restrictions.
105.11	Aggregate length of gill nets.
105.15	Aggregate length and operation of set nets.
105.18	Maximum length of seine boats.
105.19	Size of beach seines.
105.25	Minimum distance between units of gear.
105.27	Areas open to traps.
105.31	Areas open to seines; size of seines.
105.34	Closed waters.

AUTHORITY: §§ 105.1 to 105.34 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 105.1 *Definition.* The Alaska Peninsula area includes all waters of Alaska from a point 3 statute miles south of Cape Menchikof to Unimak Pass, thence easterly to the western point at the entrance to Kulukta Bay.

SALMON FISHERY

§ 105.2 *Definitions, fishing districts.* Fishing districts are as follows:

(a) *Northeastern.* All waters on the north side of the Alaska Peninsula between a point 3 statute miles south of Cape Menchikof and Cape Seniavin.

(b) *North Central.* All waters on the north side of the Alaska Peninsula between Cape Seniavin and Moffett Point.

(1) Bear River section: All waters between Cape Seniavin and Entrance Point.

(2) Nelson Lagoon section: All waters of the lagoon inside the bars and west of a line from Wolf Point to Cape Rozhnof.

(3) General section: All other waters of the district from Moffett Point to Entrance Point, including Port Moller and Herendeen Bay.

(c) *Northwestern.* All waters on the north side of the Alaska Peninsula between Moffett Point and Unimak Pass, excluding Bechevin Bay.

(d) *Southwestern.* All waters on the south side of the Alaska Peninsula between Cape Pankof light and Arch Point, including Bechevin Bay.

(e) *South Central.* All waters south of the Alaska Peninsula between Arch Point and the south side of Cape Aliak-sin at 160°45' W. long., including all of the Shumigan Islands, except Korovin Island.

(f) *Southeastern.* All waters on the south side of the Alaska Peninsula from a point at 160°45' W. long., on the south side of Cape Aliak-sin to Andronica Island light, thence to the eastern boundary of the area.

(g) *Unimak.* All waters on the south side of Unimak Island between Cape Pankof light and Scotch Cap.

§ 105.5 *Open seasons and gear.* Fishing is prohibited except:

(a) *Northeastern district.* (1) From 6 a. m. July 10 to 6 p. m. September 13 with purse seines only west of Stroganof Point, and (2) from August 1 to September 13 with gill nets only east of Stroganof Point.

(b) *North Central district.* From 6 a. m. June 23 to 6 p. m. September 13: *Provided,* (1) That in the area northeast of the church located on the beach about 1½ miles northeast of Bear River, purse seines only may be used; and (2) That this season shall not apply to gill nets with mesh at least 8½ inches stretched measure.

(c) *Northwestern district.* From 6 a. m. May 27 to 6 p. m. July 26.

(d) *Southwestern district.* From 6 a. m. May 27 to 6 p. m. August 5, and from 6 a. m. August 18 to 6 p. m. September 13.

(e) *South Central district.* From 6 a. m. May 27 to 6 p. m. August 5.

(f) *Southeastern district.* From 6 a. m. May 27 to 6 p. m. August 5.

(g) *Unimak district.* From 6 a. m. May 27 to 6 p. m. August 5.

§ 105.9 *Weekly closed periods.* The weekly closed periods are as follows:

(a) *North Central district,* Bear River section; 6 p. m. Monday to 6 a. m. Tuesday, 6 p. m. Tuesday to 6 a. m. Wednesday, 6 p. m. Wednesday to 6 a. m. Thursday, and 6 p. m. Thursday to 6 a. m. Monday.

(b) *Unimak district.* Prior to July 6, fishing is prohibited from 6 p. m. of each day to 6 a. m. of the day following in addition to the statutory weekly closed period. After July 5 fishing is prohibited from 6 p. m. Friday to 6 a. m. Monday.

(c) *North Central district, except Bear River section.* Northwestern; Southwestern; South Central; and Southeastern districts: (1) Prior to July 6, from 6 a. m. Friday to 6 a. m. Monday; (2) Subsequent to July 5, from 6 p. m. Friday to 6 a. m. Monday.

§ 105.10 *Gear restrictions.* (a) Restricted to gill nets, Swanson Lagoon. Fishing for salmon is prohibited except by means of gill nets.

(b) Restricted to purse seines, Unimak district. Fishing is prohibited except by means of purse seines.

§ 105.11 *Aggregate length of gill nets.* The aggregate length of gill nets on any

salmon fishing boat, or in use by such boat, shall not exceed 200 fathoms hung measure.

§ 105.15 *Aggregate length and operation of set nets.* (a) No set net shall exceed 75 fathoms in length hung measure. The aggregate length of set nets used by any individual shall not exceed 150 fathoms.

(b) Set nets shall be operated in substantially a straight line: *Provided*, That not to exceed 30 fathoms of each net may be used as a single hook.

§ 105.18 *Maximum length of seine boats.* In the Southwestern, South Central, and Southeastern districts no boat used in operating any purse seine shall be longer than 50 feet, official registered length.

§ 105.19 *Size of beach seines.* No beach seine shall be less than 60 fathoms in length and 3 fathoms in depth, nor more than 100 fathoms in length and 12 fathoms in depth, hung measure.

§ 105.25 *Minimum distance between units of gear.* (a) The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

(b) The distance by most direct water measurement from any part of one set net, or beach seine to any part of another set net, beach seine, or trap shall not be less than 1,800 feet.

§ 105.27 *Areas open to traps.* The use of any trap is prohibited, except as follows:

(a) Unimak Island: Ikatan Bay (1) from False Pass at 54°48'50" N. lat., 163°22'14" W. long., to 54°46'40" N. lat., 163°21'28" W. long., and (2) from 54°45'14" N. lat., 163°17'26" W. long., to 54°45'54" N. lat., 163°08'48" W. long.

(b) Unimak Island: East Anchor Cove within 2,500 feet of 54°41'17" N. lat., 163°03'32" W. long.

(c) Morzhovoi Bay within 2,500 feet of 55°00'48" N. lat., 163°09'35" W. long.

(d) Vodapoini Point within 2,500 feet of 55°02'01" N. lat., 162°24'17" W. long.

(e) Bold Cape within 2,500 feet of 55°01'08" N. lat., 162°15'32" W. long.

(f) [Reserved.]

(g) From 55°06'17" N. lat., 161°57'50" W. long., to 55°07'56" N. lat., 161°57'14" W. long.

(h) Dolgoi Island: Within 2,500 feet of 55°07'38" N. lat., 161°38'20" W. long.

(i) [Reserved.]

(j) West side of Pavlof Bay from 55°18'02" N. lat., to 55°19'56" N. lat.

(k) East side of Pavlof Bay (1) within 2,500 feet of 55°26'56" N. lat.; and (2) within 2,500 feet of 55°21'31" N. lat., 161°29'14" W. long.

(l) [Reserved.]

(m) Swedania Point within 2,500 feet of 55°28'39" N. lat., 160°30'10" W. long.

(n) Unga Island: Within 2,500 feet of 55°11'38" N. lat., 160°27'34" W. long.

(o) Popof Island: (1) Within 2,500 feet of 55°15'56" N. lat., 160°19'36" W. long.; and (2) within 2,500 feet of 55°18'32" N. lat., 160°18'44" W. long.

(p) Korovin Island: Within 2,500 feet of 55°24'20" N. lat., 160°08'53" W. long.

§ 105.31 *Areas open to seines; size of seines.* Fishing with any purse seine less than 100 fathoms in length or more than 200 fathoms in length and 350 meshes in depth is prohibited in the Southwestern, Southcentral, and Southeastern districts.

§ 105.34 *Closed waters.* Fishing is prohibited, as follows:

(a) Within 1,000 yards outside the terminuses of Bear and Sandy Rivers and all salmon streams entering Humpback and Ivan Bays.

(b) Long John Lagoon, Kinzaroff Lagoon, Mortensen Lagoon, Big Lagoon, and Middle Lagoon. Within the lagoons and within a distance of 500 yards outside the entrances.

(c) Belkofski Bay. All waters north and east of a line from 55°09'26" N. lat., 162°09'08" W. long., to 55°08'08" N. lat., 162°07'02" W. long., and thence to 55°07'20" N. lat., 162°07'41" W. long.

(d) Volcano Bay and Bear Bay. (1) North of a line from 55°13'26" N. lat., 162°01'14" W. long., to 55°13'51" N. lat., 161°58' W. long.; and (2) West of a line from 55°11'20" N. lat., 161°59'44" W. long., to 55°09'56" N. lat., 161°58'14" W. long.

(e) Canoe Bay. In the inner bay at all times and in the outer bay after July 16.

(f) Orzenoi Bay. Within 1,000 yards of any salmon stream.

(g) Balboa Bay. (1) North of a line due west from Reef Point, and (2) inside a line in Left Hand Bay from 55°31'36" N. lat., 160°42'54" W. long., to 55°33'12" N. lat., 160°42'06" W. long., after August 2.

(h) Ivanof Bay. Within 1,000 yards of any salmon stream north and east of Road Island.

(i) Morzhovoi Bay. All waters in Littlejohn Lagoon.

(j) Lenard Harbor, Cold Bay. All waters.

(k) Thin Point Cove and Lagoon. Within the cove and lagoon.

(l) Traders Cove. All waters.

(m) Frank's Lagoon. All waters.

(n) Clark and Grub Gulch Bays and Dorenai Bay. Inside a line from 55°38" N. lat., 160°24'06" W. long., to 55°39'18" N. lat., 160°22'30" W. long., after August 2.

PART 106—ALEUTIAN ISLANDS AREA

Sec. 106.1 Definition.

SALMON FISHERY

106.5 Seasons.

106.10 Traps prohibited.

106.11 Aggregate length of gill nets.

106.15 Operation of set nets.

106.17 Size of purse seines.

AUTHORITY: §§ 106.1 to 106.17 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 106.1 *Definition.* The Aleutian Islands area includes all waters of Alaska in the Aleutian Islands west of, and including, Unimak Pass.

SALMON FISHERY

§ 106.5 *Seasons.* Fishing is prohibited after 6 p. m. August 9, except that beach seines and gill nets may be used

from September 5 to September 30, inclusive.

§ 106.10 *Traps prohibited.* The use of any trap is prohibited.

§ 106.11 *Aggregate length of gill nets.* The aggregate length of gill nets on any salmon fishing boat or in use by such boat shall not exceed 200 fathoms hung measure.

§ 106.15 *Operation of set nets.* Set nets shall be operated in substantially a straight line.

§ 106.17 *Size of purse seines.* The use of any purse seine exceeding 200 fathoms in length or 350 meshes in depth is prohibited. Leads exceeding 25 fathoms in length are prohibited.

PART 107—CHIGNIK AREA

Sec. 107.1 Definition.

SALMON FISHERY

107.2 Definitions, fishing districts.

107.5 Seasons.

107.9 Weekly closed period.

107.10 Purse seines and gill nets prohibited, exception.

107.15 Aggregate length and operation of set nets.

107.17 Size of purse seines.

107.19 Size of beach seines.

107.25 Minimum distance between units of gear.

107.27 Areas open to traps.

107.34 Closed waters.

AUTHORITY: §§ 107.1 to 107.34 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 107.1 *Definition.* The Chignik area is hereby defined to include all waters of Alaska on the south side of the Alaska Peninsula between the southern entrance to Imuya Bay near Kilokak Rocks and the western point at the entrance to Kulukta Bay, including adjacent islands.

SALMON FISHERY

§ 107.2 *Definitions, fishing districts—* (a) *Western district.* South and west of Jack Point, excluding any waters of Chignik Lagoon.

(b) *Chignik Bay district.* Chignik Bay and Lagoon west of a line from Jack Point to Neketa Creek at 56°24'10" N. lat., 158°27'35" W. long.

(c) *Eastern district.* The remainder of the area outside a line from Jack Point to Neketa Creek at 56°24'10" N. lat., 158°27'35" W. long.

§ 107.5 *Open seasons.* Fishing is prohibited except:

(a) *Western district.* From 6 a. m. June 30 to 6 p. m. August 5.

(b) *Chignik Bay district.* From 6 a. m. June 16 to 6 p. m. August 29.

(c) *Eastern district.* From 6 a. m. June 30 to 6 p. m. August 5.

§ 107.9 *Weekly closed period.* The weekly closed period is extended to include:

(a) *Western and Eastern districts.* From 6 p. m. Friday to 6 a. m. Monday.

(b) *Chignik Bay district.* From 6 p. m. Monday to 6 a. m. Wednesday; from 6 p. m. Wednesday to 6 a. m. Friday; and from 6 p. m. Friday to 6 a. m. Monday.

§ 107.10 *Purse seines and gill nets prohibited, exception.* (a) The use of drift gill nets is prohibited.

(b) The use of purse seines is prohibited except in the Western district, and in the Eastern district east of Cape Kunmik.

§ 107.15 *Aggregate length and operation of set nets.* (a) No set net shall be less than 50 fathoms or more than 75 fathoms hung measure. The aggregate length of set nets in use by any boat or individual shall not exceed 100 fathoms.

(b) Set nets shall be operated in substantially a straight line: *Provided*, That not to exceed 30 yards of each net may be used as a single hook.

§ 107.17 *Size of purse seines.* No purse seine shall be less than 100 fathoms or more than 200 fathoms in length. Leads exceeding 25 fathoms in length are prohibited.

§ 107.19 *Size of beach seines.* No beach seine shall be less than 60 fathoms in length and 3 fathoms in depth, nor more than 100 fathoms in length and 12 fathoms in depth, hung measure.

§ 107.25 *Minimum distance between units of gear.* (a) The distance by most direct water measurement from any part of one set net, or seine to any part of another set net, seine, or to any trap, shall not be less than 600 feet.

(b) The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile, except in Chignik Lagoon, where there shall be a distance interval of not less than 10 statute miles laterally between any two traps on the north shore or on the south shore of Chignik Lagoon. Chignik Island shall be considered as a part of the south shore of the lagoon.

§ 107.27 *Areas open to traps.* The use of any trap is prohibited except as follows:

(a) Chignik Lagoon within 2,500 feet from the outer extremity of Hume Point.

(b) Chignik Island within 2,500 feet of 56°17'25" N. lat., 158°35'34" W. long.

(c) Along the east side of the spit at the entrance to Chignik Lagoon from the southern extremity northwesterly for 5,000 feet.

(d) The east side of Anchorage Bay within 2,500 feet of 56°19'12" N. lat., 158°21'08" W. long.

§ 107.34 *Closed waters*—(a) *Chignik Lagoon.* (1) Within a line from Hume Point to the north side of Chignik Island at 56°17'30" N. lat., 158°34'54" W. long., thence to the east side of Chignik Island at 56°16'48" N. lat., 158°34'38" W. long., thence to Green Point, and (2) Mallard Duck Bay inside a line from Green Point to Chignik Island.

(b) *Aniakchak Lagoon.* The lagoon and within 500 yards of the entrance.

(c) *Yantarni Lagoon.* The lagoon and within 500 yards of the entrance.

(d) *Nakalilok Lagoon.* The lagoon and within 500 yards of the entrance.

(e) *Kujulik Bay.* The southwest end of the bay inside a line from approximately 56°35'52" N. lat., 157°59'00" W. long., to 56°34'00" N. lat., 157°57'30" W. long.

(f) *Agripina Bay.* Within 1,000 yards of all salmon streams.

PART 108—KODIAK AREA

Sec. 108.1 Definition.

SALMON FISHERY

108.2 Definitions, fishing districts and sections.

108.5 Seasons.

108.9 Weekly closed period.

108.10 Gear restrictions.

108.15 Size and operation of set nets.

108.17 Size and operation of purse seines.

108.18 Maximum length of seine boats.

108.19 Size and operation of beach seines.

108.25 Minimum distance between units of gear.

108.27 Areas open to traps.

108.34 Closed waters.

MERRING FISHERY

108.50 Seasons.

108.53 Closed waters.

SHELLFISH FISHERY

108.70 Seasons, razor clams.

108.71 Maximum take of razor clams.

108.72 Seasons, butter clams.

108.75 Seasons, Dungeness crabs.

PERSONAL USE FISHERY

108.92 Gear and bag limit.

AUTHORITY: §§ 108.1 to 108.92 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 108.1 *Definition.* The Kodiak area is hereby defined to include all waters of Alaska from the southern entrance to Imuya Bay near Kilokak Rocks, to Cape Douglas, including Kodiak, Afognak, and adjacent islands.

SALMON FISHERY

§ 108.2 *Definitions, fishing districts and sections*—(a) *Alitak district.* All waters between Cape Trinity and Low Cape.

(1) Moser-Olga Bay section; inside a line from the southernmost point of Miller Island to the southernmost point of High Rock.

(2) Alitak Bay section; all other waters of the district.

(b) *Red River district.* All waters from Low Cape to Sturgeon Head.

(c) *Sturgeon River district.* All waters from Sturgeon Head to Cape Karluk.

(d) *Karluk district.* All waters from Cape Karluk to Broken Point.

(1) Inner Karluk section: All waters from Cape Karluk to Cape Uyak.

(2) Uyak Bay section: All waters inside a line from Cape Kuliuk to the Uyak Postoffice.

(3) Outer section: All other waters of the district.

(e) *Mainland district.* All waters of the area northwest of a line down the middle of Shelikof Strait.

(f) *Afognak district.* All waters surrounding Whale, Raspberry, Afognak, Marmot, and Shuyak Islands.

(g) *Uganik district.* All waters of Uganik and Viekoda Bays between Broken Point and Outlet Cape, including Uganik Island.

(h) *General district.* All waters not defined above.

§ 108.5 *Seasons.* Fishing is prohibited except:

(a) *Karluk district.* From 6 a. m. June 2 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20: *Provided*, That fishing is prohibited (1) from 6 p. m. June 20 to 6 a. m. July 7 in the Uyak section, and (2) from 6 p. m. August 1 to 6 a. m. September 5 in the Inner Karluk section.

(b) *Mainland district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(c) *Afognak district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(d) *General district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(e) *Red River district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(f) *Sturgeon River district.* From 6 a. m. June 2 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(g) *Alitak district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

(h) *Uganik district.* From 6 a. m. July 7 to 6 p. m. August 13, and from 6 a. m. September 5 to 6 p. m. September 20.

§ 108.9 *Weekly closed period.* Prior to September 5, the weekly closed period is extended to include from 6 p. m. Friday to 6 a. m. Monday.

§ 108.10 *Gear restrictions*—(a) *Traps prohibited after August 31.* Fishing by means of any trap is prohibited after 6 p. m. August 31.

(b) *Olga and Moser Bays.* Fishing is prohibited (1) in Olga Bay, except with set nets along the south shore from the latitude of Stockholm Point to 57°04'23" N. lat., 154°06'38" W. long., and along the eastern shore from 57°04'23" N. lat., 154°05'02" W. long., to 154° W. long., and along the north shore from 154°03' W. long. to the latitude of Stockholm Point; and (2) in Moser Bay except with set nets south of a line from 57°00'11" N. lat., 154°07'58" W. long., to 57°01'27" N. lat., 154°08'32" W. long.

(c) *Cape Karluk to Cape Uyak.* Fishing except by beach seines and purse seines is prohibited.

(d) *Sturgeon River district.* Fishing is prohibited except by purse seines and set nets.

(e) *Red River district.* Fishing is prohibited except by purse seines and set nets.

(f) *Fall season, restriction.* The taking of pink salmon is prohibited after August 31, except by set nets.

(g) *Drift nets prohibited.* Fishing with drift nets is prohibited.

§ 108.15 *Size and operation of set nets.* The aggregate length of set nets used by any individual shall not exceed 150 fathoms. Seine webbing may be used on the shore end between high and low water marks. Set nets shall be operated in substantially a straight line:

Provided, That not to exceed 25 fathoms of each net may be used as a single hook.

§ 108.17 *Size and operation of purse seines.* No purse seine shall be less than 100 fathoms nor more than 200 fathoms in length, and at least 50 fathoms shall be $7\frac{1}{4}$ fathoms or more in depth, but no part thereof shall be less than $4\frac{1}{4}$ fathoms in depth. Leads exceeding 25 fathoms in length are prohibited.

§ 108.18 *Maximum length of seine boats.* No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

§ 108.19 *Operation of beach seines.* Beach seines shall be set from the beach only. No beach seine shall be left without reasonably prompt completion of the seining operation. No beach seine shall be less than 100 fathoms nor more than 200 fathoms in length, nor less than $4\frac{1}{4}$ fathoms in depth: *Provided*, That in the Karluk district the use of beach seines 250 fathoms in length is permitted.

§ 108.25 *Minimum distance between units of stationary gear.* (a) The distance by most direct water measurement from any one set net to any part of another set net or to any trap shall not be less than 900 feet.

(b) The distance by most direct water measurement from one trap to another trap shall not be less than 1 statute mile.

§ 108.27 *Areas open to traps.* The use of any trap is prohibited, except as follows:

(a) *Raspberry Island.* From $58^{\circ}07'56''$ N. lat., $153^{\circ}14'24''$ W. long., to $58^{\circ}03'57''$ N. lat., $153^{\circ}16'14''$ W. long.

(b) *Raspberry Island.* From $58^{\circ}03'36''$ N. lat., $153^{\circ}25'04''$ W. long., to $58^{\circ}05'21''$ N. lat., $153^{\circ}22'34''$ W. long.

(c) *Raspberry Island.* Within 2,500 feet of $58^{\circ}02'54''$ N. lat., $153^{\circ}18'28''$ W. long.

(d) *Raspberry Island.* Within 2,500 feet of $58^{\circ}02'41''$ N. lat., $153^{\circ}14'51''$ W. long.

(e) *Uganik Island.* Within 2,500 feet of $57^{\circ}56'11''$ N. lat., $153^{\circ}22'45''$ W. long.

(f) *Uganik Island.* Within 2,500 feet of $57^{\circ}57'56''$ N. lat., $153^{\circ}29'34''$ W. long.

(g) *Uganik Island.* From $153^{\circ}27'34''$ W. long. to $57^{\circ}54'31''$ N. lat., $153^{\circ}30'04''$ W. long.

(h) *Kodiak Island.* Within 2,500 feet of $57^{\circ}50'56''$ N. lat., $153^{\circ}37'34''$ W. long.

(i) *Kodiak Island.* (1) Within 2,500 feet of $57^{\circ}44'46''$ N. lat., $153^{\circ}56'04''$ W. long., and (2) within 5,000 feet easterly of $57^{\circ}41'59''$ N. lat., $153^{\circ}54'19''$ W. long.

(j) *Kodiak Island.* (1) Within 2,500 feet of $57^{\circ}39'02''$ N. lat., $153^{\circ}51'46''$ W. long., and (2) within 2,500 feet of $57^{\circ}37'17''$ N. lat., $153^{\circ}51'46''$ W. long.

(k) *Kodiak Island.* Within 2,500 feet of $57^{\circ}35'51''$ N. lat., $153^{\circ}49'04''$ W. long.

(l) *Kodiak Island.* Within 800 feet of $56^{\circ}52'23''$ N. lat., $153^{\circ}59'41''$ W. long.

(m) *Kodiak Island.* Within 800 feet of $56^{\circ}58'01''$ N. lat., $153^{\circ}58'08''$ W. long.

(n) *Kodiak Island.* Within 800 feet of $57^{\circ}00'50''$ N. lat., $154^{\circ}01'47''$ W. long.

(o) *Kodiak Island.* Within 800 feet of $56^{\circ}58'06''$ N. lat., $154^{\circ}05'03''$ W. long.

(p) *Miller Island.* Within 2,500 feet of $56^{\circ}57'26''$ N. lat., $154^{\circ}07'12''$ W. long.

(q) *Afognak Island.* Within 2,500 feet of $58^{\circ}12'15''$ N. lat., $153^{\circ}07'14''$ W. long.

§ 108.34 *Closed waters.* Fishing is prohibited as follows:

(a) *Portage Bay.* (1) Southeast arm inside of markers, (2) the northeast arm within a line from a marker on the north shore 1 statute mile from the stream in the northeast corner of the bay to a marker on the opposite shore.

(b) *Deadman Bay.* North of a line from $57^{\circ}03'12''$ N. lat., $153^{\circ}49'24''$ W. long., to $57^{\circ}07'50''$ N. lat., $153^{\circ}47''$ W. long.

(c) *Red River.* All waters within 1 statute mile of the terminus.

(d) *Karluk River.* Within 100 yards of its terminus where it breaks through Karluk Spit into Shelikof Strait: *Provided*, That the area closed shall be within 500 yards of its terminus from 6 a. m. July 1 to 6 a. m. September 1.

(e) *Uyak Bay.* South of $57^{\circ}19'11''$ N. lat.

(f) *Zachar Bay.* East of $153^{\circ}43'34''$ W. long.

(g) *Spiridon Bay.* South of $57^{\circ}37'17''$ N. lat.

(h) *East Arm, Uganik Bay.* East of a line from $57^{\circ}42'39''$ N. lat., $153^{\circ}29'34''$ W. long., to $57^{\circ}43'41''$ N. lat., $153^{\circ}29'04''$ W. long.

(i) *Terror Bay.* South of $57^{\circ}44'41''$ N. lat.

(j) *Pasagshak Bay.* All waters.

(k) *Ugak Bay.* West of $152^{\circ}48'34''$ W. long.

(l) *Kiliuda Bay.* West of $153^{\circ}06'35''$ W. long.

(m) *Old Harbor.* Within 1 statute mile of the terminus of the stream 1 statute mile northeast of Old Harbor.

(n) *All bays of Afognak Island.* Within lines indicated by markers.

(o) *Kafila Bay.* Within 1 statute mile outside the entrance of the outer lagoon.

(p) *Little River.* Within 1 statute mile of the terminus.

(q) *Kizhuyak Bay.* (1) Within one-half mile of the terminus of the stream at $57^{\circ}49'11''$ N. lat., and (2) South of $57^{\circ}44'02''$ N. lat.

(r) [Reserved.]

(s) *Barling Bay.* Inside a line from $57^{\circ}11'15''$ N. lat., $153^{\circ}22''$ W. long., to $57^{\circ}11'42''$ N. lat., $153^{\circ}21'18''$ W. long.

(t) *Shearwater Bay.* North of a line from $57^{\circ}20'23''$ N. lat., $152^{\circ}52'47''$ W. long., to $57^{\circ}20'45''$ N. lat., $152^{\circ}53'30''$ W. long.

(u) *Kalsin Bay.* South of $57^{\circ}35'56''$ N. lat.

(v) *Middle Bay.* West of $152^{\circ}28'34''$ W. long.

(w) *Anton Larsen Bay.* South of $57^{\circ}50'59''$ N. lat.

(x) *Sharatin Bay.* South of $57^{\circ}49'53''$ N. lat.

(y) *Olga Bay.* Within $\frac{1}{2}$ statute mile of the terminus of any salmon stream and within $\frac{1}{2}$ statute mile of the terminus of Horse Marine Lagoon.

(z) *Kaiugnak Bay.* The lagoon west of $153^{\circ}41'53''$ W. long.

(aa) *Sukhoi Bay.* In the bay and lagoon.

HERRING FISHERY

§ 108.50 *Seasons.* Fishing, except for bait and except by gill nets, is prohibited except from June 15 to October 15.

§ 108.53 *Closed waters.* Fishing is prohibited prior to October 1 in all waters closed throughout the year to salmon fishing.

SHELLFISH FISHERY

§ 108.70 *Season, razor clams.* The taking of razor clams is prohibited from July 15 to September 15, inclusive.

§ 108.71 *Maximum take of razor clams.* Along the coast and islands from Cape Kullak to Cape Douglas, there shall not be taken more than 500,000 pounds including shells, or 12,500 cases upon the basis of 48 one-half pound cans per case.

§ 108.72 *Season, butter clams.* Prohibited from June 1 to September 1, inclusive.

§ 108.73 *Season, Dungeness crabs.* Prohibited from June 1 to August 14, inclusive.

PERSONAL USE FISHERY

§ 108.92 *Personal use gear and bag limit.* At all times in all closed commercial fishing areas of Chiniak, Pasagshak, and Anton Larsen Bays, and all streams tributary thereto, the taking of salmon for personal use shall be limited to hand rod, spear, or gaff and shall not exceed two salmon per day, per person.

PART 109—COOK INLET AREA

Sec.	Definition.
109.1	Definition.
SALMON FISHERY	
109.2	Definitions, fishing districts.
109.4	Reporting of salmon taken from the area.
109.5	Seasons.
109.9	Weekly closed period.
109.10	Gear restrictions.
109.11	Size and operation of drift gill nets.
109.13	Marking of gill nets.
109.15	Aggregate length and operation of set nets.
109.19	Size of beach seines.
109.21	Construction of hand traps.
109.25	Minimum distance between units of gear.
109.26	Sites open to traps.
109.28	Areas open to set nets.
109.34	Closed waters.

HERRING FISHERY

109.50	Seasons.
109.51	Gear restrictions.
109.53	Closed waters.
109.54	Waters closed to purse seines.

SHELLFISH FISHERY

109.70	Season, razor clams.
109.75	Season, Dungeness crabs.
109.77	Gear restrictions, King crab fishery.

PERSONAL USE FISHERY

109.90	Seasonal restrictions.
109.92	Closed waters, exception.
109.94	Bag limit.
109.95	Closed seasons, razor clams.

AUTHORITY: §§ 109.1 to 109.95 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 109.1 *Definition.* The Cook Inlet area includes all waters of Alaska in Cook Inlet north of Cape Douglas and west of Point Gore, including the Barren Islands.

SALMON FISHERY

§ 109.2 *Definitions, fishing districts—*
(a) *Northern district.* North of the latitude of Boulder Point.

(b) *North Central district.* Between the latitude of Boulder Point and the latitude of the marker at the south limit of the closed area at Kaslof River, including the waters adjacent to Kalgin Island.

(c) *South Central district.* Between the latitude of the marker at the south limit of the closed area at Kaslof River and the latitude of Anchor Point light, excluding the waters adjacent to Kalgin Island.

(d) *Southern district.* Between the latitude of Anchor Point light and a line extending from Cape Douglas through the southernmost point of Elizabeth Island across Chugach Passage.

(e) *Outer district.* Between a line extending from Cape Douglas through the southernmost point of Elizabeth Island across Chugach Passage and the outer limits of the area.

§ 109.4 *Reporting of salmon taken from the area.* No unprocessed salmon caught in the Cook Inlet area shall be transported out of the area until the number of each species shall have been reported to an authorized representative of the Bureau.

§ 109.5 *Seasons—(a) Northern and North Central districts.* (1) From 9 a. m. May 27 to 9 a. m. June 24 with gill nets only, of which no legal limit shall have more than 35 fathoms of mesh less than 8½ inches stretched measure; (2) from 9 a. m. June 24 to 9 p. m. August 12; and (3) from 9 a. m. August 19 to 9 a. m. September 20 with gill nets only.

(b) *South Central district.* (1) From 9 a. m. May 27 to 9 p. m. August 12; and (2) from 9 a. m. August 19 to 9 a. m. September 20 with gill nets only.

(c) *Southern district.* (1) From 9 a. m. May 27 to 9 p. m. August 12; and (2) from 9 a. m. August 19 to 9 a. m. September 20 with gill nets only.

(d) *Outer district.* (1) From 9 a. m. July 7 to 9 a. m. July 16; and (2) from 9 a. m. July 28 to 9 a. m. August 2.

§ 109.9 *Weekly closed period.* The weekly closed period is extended as follows:

(a) (1) In the Northern, North Central, South Central, and Southern districts prior to July 1 from 9 a. m. Friday to 9 a. m. Monday and from 9 a. m. Tuesday to 9 a. m. Thursday. In the period July 1 to July 27 inclusive, the number of fishing days per week shall be governed by the total number of units of gear registered for fishing in these districts as of the preceding June 1 in accordance with the following table:

Units of gear:	Days of fishing per week
1540	1.0
1290-1539	1.5
1050-1289	2.0
880-1049	2.5
770-879	3.0
700-769	3.5
650-699	4.0
649	5.0

(2) For the purposes of this section, one set of set net gear shall equal 1 unit of gear; one drift net 2 units of gear; one hand trap 4 units of gear; and one pile trap 8.5 units of gear.

(3) When the allowable fishing time is 1 day per week, fishing will be permitted from 9 a. m. Monday to 9 a. m. Tuesday. When the allowable fishing time is more than 1 day and less than 3 days per week, fishing will commence at 9 a. m. on Monday and 9 a. m. on Thursday, and will be continuous thereafter for one-half of the total fishing time allowed. When the allowable fishing time is 3 or 3½ days per week, the fishing time shall be divided into 3 equal parts starting at 9 a. m. on each Monday, Wednesday and Friday. When the allowable fishing time is 4 days or more per week, fishing will commence at 9 a. m. Monday and be continuous thereafter for the total fishing time allowed. As used in this section "day" refers to a period of 24 hours.

(4) After July 27, from 9 a. m. Saturday to 9 a. m. Monday.

(b) In the Outer district, from 9 a. m. Saturday to 9 a. m. Monday and from 9 a. m. Wednesday to 9 a. m. Thursday.

§ 109.10 *Gear restrictions.* (a) The use of purse seines is prohibited.

(b) The use of beach seines is prohibited north of the latitude of Anchor Point Light: *Provided*, That this shall not apply to Chinitsna Bay.

§ 109.11 *Size and operation of drift nets.* (a) No fishing boat shall operate, assist in operating, or have aboard more than one legal limit of gear.

(b) The use of drift nets is prohibited in the Northern, Southern, and Outer districts.

(c) The aggregate size of drift nets on, or in use by, any fishing boat, shall not exceed 150 fathoms in length and 45 meshes in depth.

(d) In the period from July 1 to July 27: (1) No gill net registered as a set net may be used as a drift net, nor may any gill net registered as a drift net be used as a set net; (2) No fisherman licensed to operate or assist in operating a drift net shall operate or assist in operating a set net; and no fisherman licensed to operate or assist in operating a set net shall operate or assist in operating a drift net; (3) The picking of any drift net shall be deemed to be a part of the fishing operation and shall be performed only on a registered net by the fisherman licensed to operate a particular legal limit of gear.

(4) The operation of each particular legal limit of set net shall be performed or assisted by the fisherman in whose name it is registered.

§ 109.13 *Marking of gill nets.* Each gill net in operation shall have a suitable bright red keg, buoy, or cluster of floats at each end and be plainly and legibly marked with the permanent registration number of the Bureau as well as the initials of the operator, and bright red double floats shall be attached to the cork line of drift nets at 25-fathom intervals.

§ 109.15 *Aggregate length and operation of set nets.* (a) Set nets shall be operated in substantially a straight line: *Provided*, That not to exceed 20 yards of each net may be used as a single hook. The use of set nets is prohibited in the Outer district.

(b) No set net shall exceed 35 fathoms in length hung measure. The aggregate length of set nets used by any individual shall not exceed 105 fathoms. South of the latitude of Anchor Point, seine webbing not exceeding 30 fathoms in length may be used on the shore end between high and low water.

§ 109.19 *Size of beach seines.* No beach seine shall be less than 125 meshes in depth or less than 90 fathoms in length. For the purpose of determining the depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots.

§ 109.21 *Construction of hand traps.* Twenty-five feet of the heart walls next to the pot of each hand trap shall be constructed of flexible webbing other than wire.

§ 109.25 *Minimum distance between units of gear.* (a) The distance by most direct water measurement from one trap to another trap shall not be less than 2,500 feet.

(b) The distance by most direct water measurement from one gill net or seine to another gill net, seine, or trap shall not be less than 600 feet.

§ 109.26 *Sites open to traps—(a) Northern district.* The use of any trap is prohibited except at the following sites describing the location of the tailhold and direction of the lead, and the location of the tailhold with respect to numbered monuments of the Bureau and at such sites no other type of gear may be fished after 6 a. m. June 25:

(1) Along the western shore:
(i) At 61°09'27" N. lat., 151°02'59" W. long.; direction of lead, S. 65°00' E., Bureau monument No. 50 located in line with the lead, S. 65°00' E.

(ii) At 61°07'46" N. lat., 151°04'43" W. long.; direction of lead S. 65°01' E., Bureau monument No. 49 located in line with the lead, S. 65°01' E.

(iii) At 61°00'48" N. lat., 151°23'44" W. long.; direction of lead, S. 03°50' W., Bureau monument No. 47 located in line with lead, south.

(iv) At 61°00'43" N. lat., 151°22'39" W. long.; direction of lead, S. 00°20' W., Bureau monument No. 48 located in line with lead, S. 20° W.

(2) Along the eastern shore:
(i) At 61°01'11" N. lat., 150°26'39" W. long.; direction of lead, N. 32° W., Bureau monument No. 1 located in line with lead, N. 32° W.

(ii) At 60°55'37" N. lat., 150°44'03" W. long.; direction of lead, N. 34° W., Bureau monument No. 2 located S. 45° W., distance 24 feet.

(b) *Sites open to traps, North Central district.* The use of any trap is prohibited except at the following sites describing the location of the tailhold and direction of the lead, and the location of the tailhold with respect to numbered monuments of the Bureau, and at such sites no other type of gear may be fished after 6 a. m. June 25:

(1) Along the western shore:
(i) At 60°46'02" N. lat., 151°44'32" W. long.; direction of lead, N. 60°30' E., Bureau monument No. 46 located N. 66°15' E., distance 84 feet.

(ii) At 60°24'11" N. lat., 152°15'13" W. long.; direction of lead, N. 32°30' E., Bureau monument No. 45 located N. 36°30' E., distance 121 feet.

(2) On Kalgin Island:

(i) At 60°30'33" N. lat., 151°56'53" W. long.; direction of lead, S. 80° W., Bureau monument No. 51 located N. 70°30' W., distance 63 feet.

(ii) At 60°30'36" N. lat., 151°54'35" W. long.; direction of lead, N. 33° E., Bureau monument No. 52 located N. 25°30' E., distance 65 feet.

(iii) At 60°30'05" N. lat., 151°52'59" W. long.; direction of lead, N. 25° E., Bureau monument No. 53 located in line with the lead, N. 25°00' E.

(iv) At 60°26'49" N. lat., 151°53'09" W. long.; direction of lead, S. 75° E., Bureau monument No. 54 located N. 43° E., distance 125 feet.

(v) At 60°21'44" N. lat., 152°03'51" W. long.; direction of lead, N. 10° W., Bureau monument No. 55 located N. 06°30' E., distance 56 feet.

(3) Along the eastern shore:

(i) At 60°45'58" N. lat., 151°15'28" W. long.; direction of lead, N. 84° W., Bureau monument No. 3 located in line with the lead, N. 84° W.

(ii) At 60°44'44" N. lat., 151°17'21" W. long.; direction of lead, N. 28° W., Bureau monument No. 4 located in line with the lead, N. 28° W.

(iii) At 60°44'30" N. lat., 151°18'16" W. long.; direction of lead, N. 26° W., Bureau monument No. 5 located in line with the lead, N. 26° W.

(iv) At 60°39'58" N. lat., 151°22'28" W. long.; direction of lead, S. 60°30' W., Bureau monument No. 6 located in line with the lead, S. 60°30' W.

(v) At 60°39'33" N. lat., 151°21'57" W. long.; direction of lead, S. 56° W., Bureau monument No. 7 located in line with the lead, S. 56° W.

(vi) At 60°38'56" N. lat., 151°21'24" W. long.; direction of lead, S. 70° W., Bureau monument No. 8 located in line with the lead, S. 70° W.

(vii) At 60°38'15" N. lat., 151°20'59" W. long.; direction of lead, S. 73°30' W., Bureau monument No. 9 located in line with the lead, S. 73°30' W.

(viii) At 60°37'46" N. lat., 151°20'45" W. long.; direction of lead, S. 78°40' W., Bureau monument No. 10 located in line with the lead, S. 78°40' W.

(ix) At 60°37'09" N. lat., 151°20'33" W. long.; direction of lead, S. 79°15' W., Bureau monument No. 11 located in line with the lead, S. 79°15' W.

(x) At 60°36'27" N. lat., 151°20'25" W. long.; direction of lead, S. 81°40' W., Bureau monument No. 12 located in line with the lead, S. 81°40' W.

(xi) At 60°35'51" N. lat., 151°20'12" W. long.; direction of lead, S. 80° W., Bureau monument No. 13 located in line with the lead, S. 80° W.

(xii) At 60°29'05" N. lat., 151°16'44" W. long.; direction of lead, N. 87°35' W., Bureau monument No. 14 located in line with the lead, N. 87°35' W.

(xiii) At 60°28'28" N. lat., 151°16'49" W. long.; direction of lead, N. 85°20' W., Bureau monument No. 15 located in line with the lead, N. 85°20' W.

(xiv) At 60°27'49" N. lat., 151°16'51" W. long.; direction of lead, N. 87°56' W.,

Bureau monument No. 16 located in line with the lead, N. 87°56' W.

(xv) At 60°27'17" N. lat., 151°16'52" W. long.; direction of lead, N. 84°50' W., Bureau monument No. 17 located in line with the lead, N. 84°50' W.

(xvi) At 60°26'47" N. lat., 151°16'53" W. long.; direction of lead, N. 81°30' W., Bureau monument No. 18 located in line with the lead, N. 81°30' W.

(xvii) At 60°26'18" N. lat., 151°17'02" W. long.; direction of lead, N. 84°05' W., Bureau monument No. 19 located in line with the lead, N. 84°05' W.

(c) Sites open to traps, South Central district. The use of any trap is prohibited except at the following sites describing the location of the tailhold and direction of the lead, and the location of the tailhold with respect to numbered monuments of the Bureau, and at such sites no other type of gear may be fished:

(1) On Chisik Island: At 60°08'21" N. lat., 152°33'29" W. long.; direction of lead, N. 71° E., Bureau monument No. 44 located N. 71°00' E.

(2) Along the eastern shore:

(i) At 60°20'00" N. lat., 151°22'57" W. long.; direction of lead, N. 83° W., Bureau monument No. 20 located in line with the lead, N. 83°00' W.

(ii) At 60°16'43" N. lat., 151°23'02" W. long.; direction of lead, N. 81°25' W., Bureau monument No. 21 located S. 20°.

(iii) At 60°16'10" N. lat., 151°23'13" W. long.; direction of lead, N. 75°30' W., Bureau monument No. 22 located in line with the lead, N. 75°30' W.

(iv) At 60°14'58" N. lat., 151°23'38" W. long.; direction of lead, N. 71°10' W., Bureau monument No. 23 located in line with the lead, N. 71°10' W.

(v) At 60°13'09" N. lat., 151°24'51" W. long.; direction of lead, N. 61°34' W., Bureau monument No. 24 located S. 30° W., distance 23 feet.

(vi) At 60°12'41" N. lat., 151°25'25" W. long.; direction of lead, N. 50°25' W., Bureau monument No. 25 S. 40° W., distance 115 feet.

(vii) At 60°11'20" N. lat., 151°27'27" W. long.; direction of lead, N. 53°30' W., Bureau monument No. 26 located in line with the lead, N. 53°30' W.

(viii) At 60°10'22" N. lat., 151°28'47" W. long.; direction of lead, N. 48°51' W., Bureau monument No. 27 S. 60° W., distance 50 feet.

(ix) At 60°09'45" N. lat., 151°29'36" W. long.; direction of lead, N. 55° W., Bureau monument No. 28 located in line on bluff, N. 55°00' W.

(x) At 60°09'19" N. lat., 151°30'10" W. long.; direction of lead, N. 54° W., Bureau monument No. 29 located S. 45° W., distance 10 feet.

(xi) At 60°08'54" N. lat., 151°30'42" W. long.; direction of lead, N. 54° W., Bureau monument No. 30 located in line on bluff, N. 54°00' W.

(xii) At 60°07'57" N. lat., 151°32'06" W. long.; direction of lead, N. 47° W., Bureau monument No. 31 located in line with the lead, north 47°00' W.

(xiii) At 60°07'05" N. lat., 151°33'57" W. long.; direction of lead, N. 45° W., Bureau monument No. 32 located north 50 feet.

(xiv) At 60°06'32" N. lat., 151°35'05" W. long.; direction of lead, N. 40° W.,

Bureau monument No. 33 located in line with the lead, N. 40°00' W.

(xv) At 60°06'07" N. lat., 151°36'04" W. long.; direction of lead, N. 40° W., Bureau monument No. 34 located in line on bluff, N. 53°0'0" W.

(xvi) At 60°05'26" N. lat., 151°37'19" W. long.; direction of lead, N. 68°22" W., Bureau monument No. 35 located in line with the lead, N. 68°22" W.

(xvii) At 60°04'56" N. lat., 151°37'49" W. long.; direction of lead, N. 58°50' W., Bureau monument No. 36 located in line, top of bank, N. 58°50' W.

(xviii) At 59°59'41" N. lat., 151°43'14" W. long.; direction of lead, N. 80° W., Bureau monument No. 37 located in line with the lead, N. 80°00' W.

(xix) At 59°54'16" N. lat., 151°46'00" W. long.; direction of lead, N. 70° W., Bureau monument No. 38 located N. 56°40' W., distance 189 feet.

(xx) At 59°51'15" N. lat., 151°48'03" W. long.; direction of lead, N. 74° W., Bureau monument No. 39 located in line with the lead, N. 74°00' W.

(d) Sites open to traps, Southern district. The use of any trap is prohibited except at the following sites describing the location of the tailhold and direction of the lead, and the location of the tailhold with respect to numbered monuments of the Bureau, and at such sites no other type of gear may be fished:

(1) Along the eastern shore:

(i) At 59°41'49" N. lat., 151°46'22" W. long.; direction of lead, S. 43° W., Bureau monument No. 40 located in line with the lead, S. 43°00' W.

(ii) At 59°28'56" N. lat., 151°34'40" W. long.; direction of lead, N. 43° W., Bureau monument No. 41 located in line with the lead, N. 43°00' W.

(iii) At 59°26'50" N. lat., 151°45'56" W. long.; direction of lead, N. 26° E., Bureau monument No. 42 located in line with monument on top of 80-foot bluff, N. 26°00' E.

(iv) At 59°19'47" N. lat., 151°57'38" W. long.; direction of lead, N. 69° W., Bureau monument No. 43 located S. 58°10' W., distance 325 feet.

§ 109.28 Areas open to set nets—(a) Southern district summer season. Prior to September 1 the use of set nets is prohibited in the Southern district except along the shorelines as follows:

(1) From Anchor Point to 59°41'53" N. lat., 151°46'31" W. long.

(2) That part of Halibut Cove to commercial fishing which lies within a line from the western end of Ismailof Island to the outermost point on Glacier Spit.

(3) Between Barabara Point and the headland at the west side of the entrance to Jakalof Bay.

(4) That part of Seldovia Bay open to commercial fishing lying south of the latitude of Point Naskowhak.

(5) Between Danger Cape and the point south of English Bay at 59°20'48" N. lat., 151°57'29" W. long.

(6) Port Chatham within a line from Kelp Point to the Port Chatham Packing Company dock.

(b) Areas open to set nets, Northern district. The use of any set net is prohibited, except in the following areas: Provided, That in the period prior to 9

a. m. June 24 such nets may be used in all waters of the district open to fishing:

(1) Waters along the north and west coast:

(i) From Point Mackenzie to 61°09'32" N. lat., 151°02'54" W. long.

(ii) From 61°09'22" N. lat., 151°03'07" W. long., to 61°07'52" N. lat., 151°04'38" W. long.

(iii) From 61°07'41" N. lat., 151°04'47" W. long., to 61°00'44" N. lat., 151°23'56" W. long.

(iv) From 61°00'47" N. lat., 151°23'32" W. long., to 61°00'44" N. lat., 151°22'51" W. long.

(v) From 61°00'42" N. lat., 151°22'27" W. long., to the southern boundary of the district.

(2) Waters along the west coast of Fire Island from North Point to West Point:

(3) Waters along the east coast:

(i) From Point Possession to 61°01'14" N. lat., 150°26'30" W. long.

(ii) From 61°01'07" N. lat., 150°26'48" W. long., to 60°55'40" N. lat., 150°43'53" W. long.

(iii) From 60°55'34" N. lat., 150°44'13" W. long., to the latitude of Birch Hill at approximately 60°55'00" N. lat.

(iv) From the latitude of Gray Cliff to the southern boundary of the district.

(c) Areas open to set nets, North Central district. The use of any set net is prohibited, except in the following areas: Provided, That in the period prior to 9 a. m. June 24 such nets may be used in all waters of the district open to fishing:

(1) Waters along the west coast:

(i) From the northern boundary of the district to 60°46'08" N. lat., 151°43'59" W. long.

(ii) From 60°45'56" N. lat., 151°43'45" W. long., to 60°43'53" N. lat., 151°48'36" W. long. and, from 60°24'36" N. lat., 152°16'35" W. long., to 60°24'14" N. lat., 152°15'23" W. long.

(iii) From 60°24'03" N. lat., 152°15'03" W. long., to the southern boundary of the district.

(2) Waters along the coast of Kalgin Island:

(i) From 60°30'39" N. lat., 151°56'57" W. long., to 60°30'39" N. lat., 151°54'45" W. long.

(ii) From 60°30'33" N. lat., 151°54'25" W. long., to 60°30'07" N. lat., 151°53'10" W. long.

(iii) From 60°30'03" N. lat., 151°52'48" W. long., to 60°26'55" N. lat., 151°53'09" W. long.

(iv) From 60°26'43" N. lat., 151°53'12" W. long., to 60°21'45" N. lat., 152°04'03" W. long.

(v) From 60°21'44" N. lat., 152°03'39" W. long., to 60°30'28" N. lat., 151°56'48" W. long.

(3) Waters along the east coast:

(i) From the northern boundary of the district to 60°46'04" N. lat., 151°15'28" W. long.

(ii) From 60°45'52" N. lat., 151°15'27" W. long., to 60°44'46" N. lat., 151°17'10" W. long.

(iii) From 60°44'41" N. lat., 151°17'31" W. long., to 60°44'32" N. lat., 151°18'05" W. long.

(iv) From 60°44'29" N. lat., 151°18'28" W. long., to 60°40'03" N. lat., 151°22'34" W. long.

(v) From 60°39'53" N. lat., 151°22'21" W. long., to 60°39'38" N. lat., 151°22'02" W. long.

(vi) From 60°39'28" N. lat., 151°21'51" W. long., to 60°39'02" N. lat., 151°21'27" W. long.

(vii) From 60°38'50" N. lat., 151°21'20" W. long., to 60°38'21" N. lat., 151°21'02" W. long.

(viii) From 60°38'09" N. lat., 151°20'56" W. long., to 60°37'52" N. lat., 151°20'47" W. long.

(ix) From 60°37'40" N. lat., 151°20'42" W. long., to 60°37'15" N. lat., 151°20'33" W. long.

(x) From 60°37'03" N. lat., 151°20'33" W. long., to 60°36'33" N. lat., 151°20'26" W. long.

(xi) From 60°36'21" N. lat., 151°20'22" W. long., to 60°35'57" N. lat., 151°20'14" W. long.

(xii) From 60°35'45" N. lat., 151°20'10" W. long., to the northern Bureau marker at the mouth of the Kenai River.

(xiii) From the southern Bureau marker at the mouth of the Kenai River to 60°29'11" N. lat., 151°16'43" W. long.

(xiv) From 60°28'59" N. lat., 151°16'44" W. long., to 60°28'34" N. lat., 151°16'48" W. long.

(xv) From 60°28'22" N. lat., 151°16'49" W. long., to 60°27'55" N. lat., 151°16'51" W. long.

(xvi) From 60°27'43" N. lat., 151°16'51" W. long., to 60°27'23" N. lat., 151°16'51" W. long.

(xvii) From 60°27'11" N. lat., 151°16'52" W. long., to 60°26'58" N. lat., 151°16'51" W. long.

(xviii) From 60°26'41" N. lat., 151°16'54" W. long., to 60°26'24" N. lat., 151°17'00" W. long.

(xix) From 60°26'12" N. lat., 151°17'04" W. long., to the northern Bureau marker at the mouth of the Kaslof River.

(xx) West of the Kaslof River mouth at least 1 statute mile.

(d) Areas open to set nets, South Central district. The use of any set net is prohibited, except in the following areas:

(1) Waters along the west coast:

(i) From 60°16'11" N. lat., 152°29'54" W. long., to 60°14'14" N. lat., 152°32'37" W. long., and from 60°13'25" N. lat., 152°34'39" W. long., to the latitude of Chisik Island Light.

(ii) Near Muddy River from 60°01'19" N. lat., 152°36'15" W. long., to 59°58'35" N. lat., 152°40'00" W. long.

(iii) In Chinitna Bay from 59°52'29" N. lat., 152°56'58" W. long., to 59°51'31" N. lat., 153°06'57" W. long.

(iv) In Chinitna Bay from 59°49'27" N. lat., 153°08'57" W. long., to 59°49'40" N. lat., 153°00'15" W. long.

(2) Chisik Island, except between 60°08'27" N. lat., 152°33'29" W. long., and 60°08'14" N. lat., 152°33'34" W. long.

(3) Waters along the east coast:

(i) From the southern Bureau marker at the mouth of the Kaslof River to 60°20'06" N. lat., 151°22'56" W. long.

(ii) From 60°19'54" N. lat., 151°22'50" W. long., to 60°16'49" N. lat., 151°23'01" W. long.

(iii) From 60°16'37" N. lat., 151°23'03" W. long., to 60°16'16" N. lat., 151°23'10" W. long.

(iv) From 60°16'04" N. lat., 151°23'16" W. long., to 60°15'04" N. lat., 151°23'35" W. long.

(v) From 60°14'52" N. lat., 151°23'40" W. long., to 60°13'14" N. lat., 151°24'45" W. long.

(vi) From 60°13'04" N. lat., 151°24'56" W. long., to 60°12'46" N. lat., 151°25'19" W. long.

(vii) From 60°12'36" N. lat., 151°25'32" W. long., to 60°11'25" N. lat., 151°27'20" W. long.

(viii) From 60°11'15" N. lat., 151°27'34" W. long., to 60°10'27" N. lat., 151°28'41" W. long.

(ix) From 60°10'17" N. lat., 151°28'53" W. long., to 60°09'50" N. lat., 151°29'30" W. long.

(x) From 60°09'40" N. lat., 151°29'42" W. long., to 60°09'24" N. lat., 151°30'04" W. long.

(xi) From 60°09'14" N. lat., 151°30'16" W. long., to 60°08'59" N. lat., 151°30'35" W. long.

(xii) From 60°08'49" N. lat., 151°30'49" W. long., to 60°08'01" N. lat., 151°31'58" W. long.

(xiii) From 60°07'53" N. lat., 151°32'14" W. long., to 60°07'09" N. lat., 151°33'48" W. long.

(xiv) From 60°07'01" N. lat., 151°34'06" W. long., to 60°06'36" N. lat., 151°34'57" W. long.

(xv) From 60°06'28" N. lat., 151°35'15" W. long., to 60°06'11" N. lat., 151°35'56" W. long.

(xvi) From 60°06'03" N. lat., 151°36'13" W. long., to 60°05'31" N. lat., 151°37'13" W. long.

(xvii) From 60°05'20" N. lat., 151°37'24" W. long., to 60°05'01" N. lat., 151°37'43" W. long.

(xviii) From 60°04'51" N. lat., 151°37'55" W. long. to the latitude of the Bureau marker marking the northern limit of the closed area at the mouth of Ninilchik River.

§ 109.34 Closed waters. Fishing is prohibited, as follows:

(a) Within 1 statute mile of the terminuses of the following salmon streams: Kenai River, Kaslof River, Swanson Creek, Bishop Creek, Ninilchik River, Deep Creek, Starichkof River, Anchor Point River, Little Susitna River, Susitna River, Ivan River, Lewis River, Theodore River, Beluga River, Threemile Creek, Chuit River, Nikolai River, McArthur River, Kustatan River, Katnut River, Drift River, and Kalgin Island Stream on the east coast of Kalgin Island, Grecian River:

(b) Turnagain Arm and Knik Arm: East of a line from 61°02'21" N. lat., 150°23'38" W. long. to West Point Light on Fire Island, thence along the eastern shore of Fire Island to North Point, thence to 61°14'21" N. lat., 149°59'33" W. long.

(c) Kamishak Bay: Within one statute mile of any salmon stream.

(d) Kachemak Bay: Above a line from Chugachik Island to a point on the opposite shore one-half mile below the terminus of Swift Creek.

(e) Sedovia Bay: Inside Powder Island.

(f) Chinitna Bay: West of a line from 59°51'31" N. lat., 150°08'10" W. long. to 59°49'27" N. lat., 150°08'57" W. long.

(g) Iniskin Bay: (1) North of 59°-43'55" N. lat.;

(2) All waters of the Right Arm.

(h) Cottonwood Bay: West of 153°-39'00" W. long.

(i) In any bay, estuary, slough, or lagoon less than 300 feet in width at mean low tide.

HERRING FISHERY

§ 109.50 *Seasons.* Fishing, except for bait and except by gill nets, is prohibited except from June 15 to October 15.

§ 109.51 *Gear restrictions—(a) Halibut Cove.* Fishing, including the waters within a line from the western end of Ismailof Island to the outermost point on Glacier Spit, is limited to gill nets.

(b) *Halibut Cove Lagoon.* Fishing is limited to set gill nets not exceeding 50 fathoms in length, hung measure. Nets shall be not less than 150 yards apart.

§ 109.53 *Closed waters.* Fishing is prohibited prior to October 1 in all waters closed throughout the year to salmon fishing.

§ 109.54 *Waters closed to purse seines.* Purse seines are prohibited in Kachemak Bay within a line from Nubble Point to Bluff Point.

SHELLFISH FISHERY

§ 109.70 *Season, razor clams.* Taking razor clams is prohibited from July 10 to August 31, inclusive.

§ 109.75 *Season, Dungeness crabs.* Fishing is prohibited from June 1 to August 14, inclusive.

§ 109.77 *Gear restrictions, king crab fishery.* (a) King crab shall be fished for, or taken, with pots only in Kachemak Bay east of the longitude of Anchor Point.

(b) No individual or boat shall operate more than 15 crab pots.

(c) The float of each crab pot shall be plainly and legibly marked with the permanent Bureau registration number and all pots fished under a single registration shall be consecutively numbered, starting with the number one.

PERSONAL USE FISHERY

§ 109.90 *Seasonal restrictions.* The restrictions of § 102.92 (b) shall not apply (a) during any fall season; (b) to the waters of Turnagain Arm east of a line between the townsites of Indian and Hope; (c) to the waters of Knik Arm north of Point Woronzof by means of set gill nets which (1) shall not exceed 15 fathoms per person, (2) shall be at least 100 yards apart, and (3) shall be operated prior to August 6 only during hours open to commercial fishing in the Northern district; and (d) more than 5 miles upstream from tidewater on all streams and lakes of the Cook Inlet drainage lying south and west of the Susitna River.

§ 109.92 *Closed waters, exception.* Fishing for, taking or molesting any salmon by any means, or for any purpose, is prohibited in:

(a) Cottonwood, Fish and Campbell Creeks, including their tributary lakes and streams, and within 500 yards of their terminuses in salt water.

(b) The Kenai and lower Russian Rivers within 300 yards of their confluence.

(c) The streams and lakes tributary to the east coast of Cook Inlet north of the town of Homer and tributary to the north coast east of the mouth of Susitna River, including all drainages of Knik and Turnagain Arms, except with hand rod, hook and line.

§ 109.94 *Bag limit.* 10 salmon per person per day of which not more than 2 may exceed 16 inches in length by hook and line.

§ 109.95 *Closed season, razor clams.* From July 10 to August 31 inclusive.

PART 110—RESURRECTION BAY AREA

Sec.

Definition.

SALMON FISHERY

110.2 Definitions, fishing districts.

110.5 Seasons.

110.9 Weekly closed periods.

110.10 Traps and purse seines prohibited.

110.11 Aggregate length of gill nets.

110.12 Size of mesh, gill nets.

110.15 Size and operation of set nets.

110.19 Size of beach seines.

110.34 Closed waters.

HERRING FISHERY

110.50 Seasons.

110.53 Closed waters.

PERSONAL USE FISHERY

110.92 Closed waters.

110.94 Bag limit.

AUTHORITY: §§ 110.1 to 110.94 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 110.1 *Definition.* The Resurrection Bay area includes all waters of Alaska in the Gulf of Alaska between Point Gore and Cape Fairfield.

SALMON FISHERY

§ 110.2 *Definitions, fishing districts.*

(a) *Eastern district.* All waters east of 149°30' W. long.

(b) *Western district.* All waters west of 149°30' W. long.

§ 110.5 *Seasons.* (a) Eastern district, from 9 a. m. August 1 to 6 p. m. September 13, (b) Western district, from 9 a. m. July 1 to 9 a. m. August 9.

§ 110.9 *Weekly closed periods, Western District.* The weekly closed period is extended as follows: from 9 a. m. Saturday to 9 a. m. Monday and 9 a. m. Wednesday to 9 a. m. Thursday.

§ 110.10 *Traps and purse seines prohibited.* The use of any trap or purse seine is prohibited.

§ 110.11 *Aggregate length of gill nets.* The aggregate length of gill nets on, or in use by any boat, shall not exceed 200 fathoms hung measure.

§ 110.12 *Size of mesh, gill nets.* Gill net mesh shall not be less than 5½ inches stretched measure.

§ 110.15 *Size and operation of set nets.* No set net shall exceed 300 yards in length, and each shall be set in substantially a straight line: *Provided,* That not to exceed 20 yards of each net may

be used as a single hook. There shall be a distance interval of at least 200 yards, both endwise and laterally, between all set nets.

§ 110.19 *Size of beach seines.* No beach seine shall be less than 125 meshes in depth or less than 90 fathoms in length hung measure. For the purpose of determining the depth of seines, measurements will be on the basis of 3½ inches stretched measure between knots.

§ 110.34 *Closed waters.* Fishing is prohibited inside a line extending from the Seward city dock to the Ocean Van Lines dock.

HERRING FISHERY

§ 110.50 *Closed seasons.* Fishing, except for bait and except by gill nets, is prohibited except from June 15 to October 15.

§ 110.53 *Closed waters.* From July 1 to October 1, inclusive, fishing, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

PERSONAL USE FISHERY

§ 110.92 *Closed waters.* Fishing for, taking or molesting any salmon is prohibited in Bear Creek and Lake, Grouse Creek and Lake, and Salmon Creek, prior to 6 a. m. August 15.

§ 110.94 *Bag limit.* Ten salmon per person per day, of which not more than two shall exceed 16 inches in length, with hook and line.

PART 111—PRINCE WILLIAM SOUND AREA

Sec.

Definition.

SALMON FISHERY

111.2 Definitions, fishing districts.

111.5 Seasons.

111.9 Weekly closed period.

111.10 Gear restrictions.

111.15 Size and operation of set nets.

111.17 Size of purse seines.

111.18 Maximum length of seine boats.

111.25 Minimum distance between traps.

111.27 Areas open to traps.

111.34 Closed waters.

HERRING FISHERY

111.50 Seasons.

111.53 Closed waters.

SHELLFISH FISHERY

111.70 Closed seasons, razor clams.

111.73 Maximum take, razor clams.

111.75 Closed season, Dungeness crabs.

111.78 Limitation of crab pots.

111.79 Identification of crab pots.

111.80 Crab pot opening.

PERSONAL USE FISHERY

111.96 Closed seasons, razor clams.

AUTHORITY: §§ 111.1 to 111.96 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 111.1 *Definition.* The Prince William Sound area is hereby defined to include all waters of Alaska between Cape Fairfield and Point Whittished.

SALMON FISHERY

§ 111.2 *Definitions, fishing districts.*

(a) *Eshamy district:* Within one mile of the mainland shore from the outer point

on the north shore of Granite Bay to the light on the south shore of the entrance to Port Nellie Juan.

(b) General district: The area other than the Eshamy district.

§ 111.5 *Seasons.* Fishing, except trolling, is prohibited except in the general district, from 6 a. m., July 10, to 6 a. m., August 9: *Provided*, That the number of purse seine units registered prior to June 10 does not exceed 214. Should more than 214 purse seine units be registered prior to June 10, the fishing season will be shortened according to the following table:

Number of purse seine units:	Season closing date (6 a. m.)
214 or less.....	Aug. 9
215-219.....	Aug. 8
220-224.....	Aug. 7
225-229.....	Aug. 6
230-234.....	Aug. 5
235-239.....	Aug. 4
240-244.....	Aug. 2
245-254.....	Aug. 1

For the purposes of this section a purse seine unit is considered to be the fishing effort of one purse seine net. Other forms of gear are computed in terms of purse seine units based on their relative historical catches.

§ 111.9 *Weekly closed period.* From 6 a. m. Saturday to 6 a. m. Monday.

§ 111.10 *Gear restrictions.* Beach seines and gill nets prohibited, exception: The use of any beach seine or gill net is prohibited, except for set nets in the Eshamy district.

§ 111.15 *Size and operation of set nets.* No set net shall exceed 300 yards in length and each shall be set in substantially a straight line: *Provided*, That not to exceed 20 yards of each net may be used as a single hook. There shall be a distance interval of at least 200 yards, both endwise and laterally, between set nets.

§ 111.17 *Size of purse seines and leads.* No purse seine shall be less than 9½ fathoms nor more than 17 fathoms in depth, nor less than 125 fathoms nor more than 150 fathoms in length hung measure. Leads exceeding 75 fathoms in length are prohibited.

§ 111.18 *Maximum length of seine boats.* No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

§ 111.25 *Minimum distance between traps.* The distance by most direct water measurement from one trap to another trap shall not be less than 1½ statute miles.

§ 111.27 *Areas open to traps.* The use of any trap is prohibited, except as follows:

(a) *Knight Island.* From 60°10' N. lat. to Point Helen, thence to 60°11'25" N. lat., 147°50'12" W. long., exclusive of all waters in Little Bay.

(b) Within ½ statute mile of the southern extremity of Squire Island.

(c) *Bainbridge Island.* Within 2,500 feet of 60°11'42" N. lat., 148°02'32" W. long.

(d) *Chenega Island.* From a point 1 statute mile southward of its northern extremity to a point 1 statute mile eastward of Chenega village.

(e) Within 2,500 feet westerly of 60°24'58" N. lat., 147°57'50" W. long.

(f) *Knight Island.* Within 2,500 feet of 60°22'05" N. lat., 147°37'01" W. long.

(g) *Culross Island.* From the northern side of the entrance to Hidden Bay to 60°43'55" N. lat., 148°06'07" W. long.

(h) *Valdez Arm.* (1) Within 2,500 feet of 60°55'50" N. lat., 146°58'07" W. long., and (2) from 60°58'10" N. lat., to 60°59'10" N. lat.

(i) *Bligh Island.* (1) Within 2,500 feet of 60°49'06" N. lat., 146°48'55" W. long., and (2) within 2,500 feet of 60°48'38" N. lat., 146°44'47" W. long.

(j) *Bidarka Point.* Within ½ statute mile of the southwestern extremity.

(k) *Landlocked Bay.* From a point on the east side at 60°49'10" N. lat., to the north shore of Port Fidalgo at 146°31'32" W. long.

(l) *Porcupine Point.* Within ½ statute mile.

(m) *Knowles Head.* Within 2,500 feet of 60°41'40" N. lat., 146°39'54" W. long.

(n) *Red Head.* Within 1 statute mile.

(o) From 1 statute mile northwestward of the light at Gravina Point to a point 2 statute miles northwestward of the light.

(p) Within 1 statute mile southwestward of the outer point on the southwest side of the entrance to Cedar Bay.

(q) *Makaka Point.* Within 1 statute mile.

(r) *Hinchinbrook Island.* Within 3,000 feet of 60°28'57" N. lat., 146°22'59" W. long.

(s) *Hinchinbrook Island.* Within 3,000 feet of 60°28'08" N. lat., 146°26'32" W. long.

(t) *Hinchinbrook Island.* Within 2,500 feet of 60°29'04" N. lat., 146°31'43" W. long.

(u) *Hinchinbrook Island.* From 60°27'10" N. lat., 146°39'20" W. long., northward to the light at Johnstone Point.

(v) *Hinchinbrook Island.* Within 2,500 feet of 60°24'48" N. lat., 146°42'02" W. long.

(w) *Hinchinbrook Island.* Within ½ statute mile eastward on the south side of Port Etches at 146°39'32" W. long.

(x) *Montague Island.* From 59°52'20" N. lat., 147°50'32" W. long., to 59°52'10" N. lat., 147°51'32" W. long.

(y) *Montague Island.* (1) From Point Woodcock northerly 6,000 feet, and (2) within 3,000 feet of 59°56'44" N. lat., 147°44'47" W. long.

(z) *Montague Island.* (1) From Point Basil to 60°00'40" N. lat., and (2) from 60°07'28" N. lat. to 60°09'55" N. lat.

(aa) *Montague Island.* From 60°11'30" N. lat. to 60°12'05" N. lat.

(bb) *Montague Island.* From Graveyard Point to 60°21'51" N. lat., 147°09'19" W. long.

§ 111.34 *Closed waters.* Fishing is prohibited, as follows:

(a) *Constantine Harbor.* Within 100 yards outside the narrows at the entrance,

(b) *Boswell Bay.* West of 146°09'32" W. long.

(c) *Sheep Bay.* Within 1,000 yards of the terminus of the stream at the head of the bay.

(d) *Gravina River.* Within 1,000 yards of the terminus.

(e) *Olsen Bay, north side of Port Gravina.* Within 2,000 yards of the terminus of the stream at the head.

(f) *St. Matthew Bay.* Within 2,000 yards of the terminus of the stream at the head.

(g) *Irish Cove.* South of 60°46'10" N. lat.

(h) *Whalen Bay.* East of 146°15'02" W. long.

(i) *Fish Bay, north side of Port Fidalgo.* Within 1,000 yards of the terminus of the stream at the head.

(j) *Galena Bay.* Within a line from 60°55'40" N. lat., 146°38'02" W. long., to 60°56'27" N. lat., 146°36'02" W. long., and within 1,000 yards of the terminus of Indian Creek.

(k) *Valdez Arm.*—(1) *Port Valdez.* East of 146°39'00" W. long.

(2) *Jack Bay.* East of 146°35'32" W. long., and within 1,000 yards of the terminus of the two streams on the south shore of the bay.

(3) *Sawmill Bay.* Within 1,000 yards of the terminus of the salmon stream on the west shore of the bay north of the lagoon.

(l) [Reserved.]

(m) *Long Bay.* Within 1,000 yards of the terminus of any salmon stream.

(n) *Unakwik Inlet.* Within 1,000 yards of the terminus of any salmon stream.

(o) *Wells Passage.* Within 1 statute mile of the terminus of any salmon stream in Wells Passage and its tributaries, including Port Wells, Cochrane Bay, Balckstone Bay, and Passage Canal.

(p) *Long Bay, tributary to Culross Passage.* Within the bay.

(q) [Reserved.]

(r) *Eshamy district.* Entire district.

(s) *Jackpot Bay.* Within a line indicated by markers, at the entrance to the narrows.

(t) *Port Bainbridge.* The middle north arm.

(u) *Beartrap Bay.* Within 1,000 yards of the terminus of the stream at the head.

(v) *Shelter Bay, Hinchinbrook.* Within 1,000 yards of the terminus of the stream at the head.

(w) *Hinchinbrook.*—(1) *Anderson Bay.* (i) From 60°28'00" N. lat., 146°32'45" W. long., to 60°27'54" N. lat., 146°31'50" W. long., and (ii) from 60°27'45" N. lat., 146°29'00" W. long., to 60°28'10" N. lat., 146°27'00" W. long.

(2) *Hawkins Cutoff.* From 60°27'15" N. lat., 146°21'30" W. long., to 60°24'30" N. lat., 146°19'30" W. long.

(x)–(z) [Reserved.]

(aa) *Comfort Cove.* Within 1,000 yards of the terminus of the stream at the head.

(bb) *Port Fidalgo.*—(1) *Two Moon Bay.* Within 1,000 yards of the terminus of the stream at the head of the east arm.

(2) *Landlock Bay.* Within 1,000 yards of the terminus of the stream at the head.

(cc) *Wells Bay*. Within 1,000 yards of the terminus of the two streams at the head.

(dd) *Port Nellie Juan*. Within 1,000 yards of the terminus of the streams at (1) 60°35'30" N. lat., 148°15'00" W. long., (2) 60°34' N. lat., 148°20'30" W. long., and (3) 60°35'40" N. lat., 148°24' W. long.

(ee) *Montague Island*—(1) *MacLeod Harbor*. Within 1,000 yards of the terminus of all salmon streams at the head.

(2) *Hanning Bay*. Within 1,000 yards of the terminus of the stream at the head.

(3) *Zaikoff Bay*. Within 1,000 yards of the terminus of the stream on the south shore nearest the head.

(4) *Port Chalmers*. From 60°14'20" N. lat., 147°13'47" W. long., to 60°15'25" N. lat., 147°10'47" W. long.

HERRING FISHERY

§ 111.50 *Seasons*. Fishing, except for bait and except by gill nets, is prohibited except from June 15 to October 15.

§ 111.53 *Closed waters*. (a) From July 1 to October 1, inclusive, fishing is prohibited in all waters closed throughout the year to salmon fishing.

(b) *Tatitlek village*. Fishing is prohibited within 1 statute mile of Tatitlek village.

SHELLFISH FISHERY

§ 111.70 *Closed season, razor clams*. From July 1 to August 15, inclusive.

§ 111.73 *Maximum take, razor clams*—(a) *January 1 to June 30*. There shall not be taken in the Prince William Sound and Copper River areas a combined total of more than 1,470,000 pounds of razor clams, including shells, or 42,000 cases upon the basis of 48 one-half pound cans per case. Not to exceed 175,000 pounds, including shells, or 5,000 cases upon the basis of 48 one-half pound cans per case, shall be taken prior to April 15.

(b) *August 16 to December 31*. There shall not be taken in the Prince William Sound and Copper River areas a combined total of more than 35,000 pounds of razor clams, including shells, or 1,000 cases upon the basis of 48 one-half pound cans per case.

§ 111.75 *Closed season, Dungeness crabs*. Fishing is prohibited north of 60°22' N. lat., and east of 146°40' W. long. from 12 o'clock noon, June 1, to 12 o'clock noon, August 31.

§ 111.78 *Limitation of crab pots*. No boat shall operate or assist in operating more than 100 crab pots north of 60°22' N. lat. and east of 146°40' W. long.

§ 111.79 *Identification of crab pots*. The float of each crab pot shall carry the name or initials of the operator in such manner that the ownership can be readily determined.

§ 111.80 *Crab pot opening*. An escape hole of sufficient size and so located as to permit the escape of female and undersized male crabs shall be provided in each crab pot.

PERSONAL USE FISHERY

§ 111.96 *Seasons, razor clams*. From July 1 to August 15, inclusive.

PART 112—COPPER RIVER AREA

Sec.

112.1

Definition.

SALMON FISHERY

112.5

Seasons.

112.9

Weekly closed period.

112.10

Limited to drift gill nets.

112.11

Size of gill nets.

112.13

Marking of gill nets.

112.34

Closed waters.

SHELLFISH FISHERY

112.70

Seasons, razor clams.

112.72

Maximum take, razor clams.

112.79

Identification of crab pots.

112.80

Crab pot opening.

PERSONAL USE FISHERY

112.92

Closed waters.

112.96

Closed season, razor clams.

AUTHORITY: §§ 112.1 to 112.96 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 112.1 *Definition*. The Copper River area is hereby defined to include all waters of Alaska between Point Whittished and Point Martin.

SALMON FISHERY

§ 112.5 *Seasons*. Fishing is prohibited except from 6 a. m. May 5 to 6 p. m. September 18.

§ 112.9 *Weekly closed period*. Prior to August 10 fishing is prohibited from 6 a. m. Wednesday to 6 p. m. Thursday, and from 6 a. m. Saturday to 6 a. m. Monday.

§ 112.10 *Limited to drift gill nets*. Fishing shall be conducted solely by drift nets.

§ 112.11 *Size of gill nets*. No boat shall fish or assist in fishing with gill nets having an aggregate length, hung measure, in excess of 150 fathoms, except that not more than two boats when operating together may have on board gill nets having an aggregate length, hung measure, of not to exceed 300 fathoms: *Provided*, That from May 5 to May 31, inclusive, any boat may fish with an addition 100 fathoms of gill net if the mesh is not less than 8½ inches stretched measure.

§ 112.13 *Marking of gill nets*. Each drift net in operation shall have a suitable bright red keg, buoy, or cluster of floats at each end which shall be plainly and legibly marked with the initials of the operator, and bright red double floats shall be attached to the cork line at 25-fathom intervals.

§ 112.34 *Closed waters*. Fishing is prohibited prior to August 10 within 500 yards of the Grass Banks; at all times within sloughs and within 500 yards of their terminuses, and north of a line from Cottonwood Point through Kokenhenik Island to the west shore of Kokenhenik Channel.

SHELLFISH FISHERY

§ 112.70 *Closed season, razor clams*. From July 1 to August 15, both dates inclusive.

§ 112.72 *Maximum take, razor clams*—(a) *January 1 to June 30*. There shall not be taken in the Prince William Sound and Copper River areas a combined total of more than 1,470,000 pounds of razor

clams, including shells, or 42,000 cases upon the basis of 48 one-half pound cans per case. Not to exceed 175,000 pounds, including shells, or 5,000 cases upon the basis of 48 one-half pound cans per case, shall be taken prior to April 15.

(b) *August 16 to December 31*. There shall not be taken in the Prince William Sound and Copper River areas a combined total of more than 35,000 pounds of razor clams, including shells, or 1,000 cases upon the basis of 48 one-half pound cans per case.

§ 112.79 *Identification of crab pots*. The float of each crab pot set for fishing shall carry the name or initials of the operator in such manner that the ownership thereof can be readily determined.

§ 112.80 *Crab pot opening*. An escape hole of sufficient size and so located as to permit the escape of female and undersized male crabs shall be provided in each crab pot.

PERSONAL USE FISHERY

§ 112.92 *Closed waters*. Fishing for, taking, or molesting any salmon by any means, or for any purpose, is prohibited in all waters of Gulkana River and all its tributaries above Gulkana Lake.

§ 112.96 *Closed season, razor clams*. From July 1 to August 15, inclusive.

PART 113—BERING RIVER-YAKATAGA AREA

Sec.

113.1

Definition.

SALMON FISHERY

113.2

Definitions, fishing districts.

113.5

Seasons.

113.9

Weekly closed period.

113.10

Gear restriction.

113.11

Aggregate length and operation of drift gill nets.

113.13

Marking of gill nets.

113.34

Closed waters.

SHELLFISH FISHERY

113.70

Seasons, razor clams.

113.71

Maximum take, razor clams.

PERSONAL USE FISHERY

113.96

Closed seasons, razor clams.

AUTHORITY: §§ 113.1 to 113.96 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 113.1 *Definition*. The Bering River-Yakataga area is hereby defined to include all waters of Alaska between Point Martin and Icy Cape.

SALMON FISHERY

§ 113.2 *Definitions, fishing districts*. (a) *Bering River district*. All waters between Point Martin and Cape Suckling. (b) *Yakataga district*. All waters between Cape Suckling and Icy Cape.

§ 113.5 *Seasons*. Fishing is prohibited except: (a) Bering River district, from 6 a. m. May 5 to 6 p. m. September 18, (b) Yakataga district, from 6 a. m. August 10 to 6 p. m. September 18.

§ 113.9 *Weekly closed period*. Fishing is prohibited from 6 a. m. Saturday to 6 a. m. Monday, and from 6 a. m. Wednesday to 6 p. m. Thursday: *Provided*, That these restrictions shall not apply in the Bering River district after August 9.

§ 113.10 *Gear restrictions.* (a) *Bering River district.* Fishing shall be conducted solely by drift nets.

(b) *Yakataga district.* Fishing shall be conducted solely by trolling or with set nets which shall be operated in substantially a straight line.

113.11 *Aggregate length and operation of drift gill nets.*—(a) *Bering River district.* No boat shall fish or assist in fishing with gill nets having an aggregate length, hung measure, in excess of 150 fathoms, except that not more than two boats when operating together may have on board gill nets having an aggregate length, hung measure, of not to exceed 300 fathoms: *Provided*, That from May 5 to May 31, inclusive, any boat may fish with an additional 100 fathoms of gill net if the mesh is not less than 8½ inches stretched measure.

(b) *Yakataga district.* Set nets shall not exceed 25 fathoms per net or 25 fathoms aggregate per person.

§ 113.13 *Marking of gill nets.* Each drift net in operation shall have a suitable bright red keg, buoy or cluster of floats at each end which shall be plainly and legibly marked with the initials of the operator, and bright red double floats shall be attached to the cork line at 25-fathom intervals.

§ 113.34 *Closed waters in the Bering River district.* Fishing is prohibited east of a line from 60°11'20" N. lat., 144°17'33" W. long., to 60°09'43" N. lat., 144°15' W. long.

SHELLFISH FISHERY

§ 113.70 *Closed season, razor clams.* From July 1 to August 15, inclusive.

§ 113.71 *Maximum take, razor clams.* There shall not be taken a combined total of more than 160,000 pounds of razor clams, including shells, or 4,000 cases upon the basis of 48 one-half pound cans per case.

PERSONAL USE FISHERY

§ 113.96 *Closed season, razor clams.* From July 1 to August 15, inclusive.

PART 114—YAKUTAT AREA

Sec.
114.1 Definition.

SALMON FISHERY

114.5 Seasons.
114.6 Seasons, trolling.
114.9 Weekly closed periods.
114.10 Gear restrictions, exceptions.
114.11 Size of set nets, exceptions.
114.13 Marking of set nets.
114.34 Closed waters.

AUTHORITY: §§ 114.1 to 114.34 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 114.1 *Definition, Yakutat area.* The Yakutat area is hereby defined to include all waters of Alaska between Cape Fairweather and Icy Cape.

SALMON FISHERY

§ 114.5 *Seasons.* Fishing, other than trolling, is prohibited except as follows:
(a) *Alsek River.* From 6 a. m. June 2 to 6 p. m. September 30.

(b) *Situk-Ahrnklin Inlet.* From 6 a. m. June 23 to 6 p. m. September 30.

(d) *Remainder of the Yakutat area.* From 6 a. m. June 30 to 6 p. m. September 30.

(e) *Yakutat Bay.* From 6 a. m. June 16 to 6 p. m. September 30.

§ 114.6 *Seasons trolling.* Trolling is prohibited from 6 p. m. September 20 to 6 a. m. April 15.

§ 114.9 *Weekly closed periods.* (a) *Prior to August 11.* From 6 p. m. Thursday to 6 a. m. Monday, except that the closure on the Alsek River shall be from 6 p. m. Friday to 6 a. m. Monday.

(b) *After August 10.* From 12 noon Saturday to 12 noon Monday.

§ 114.10 *Gear restrictions, exceptions.* Fishing is prohibited other than by trolling or with set nets, which shall be operated in substantially a straight line, except that set nets in Disenchantment and Yakutat Bays may have not to exceed 15 fathoms of their length used as a single hook.

§ 114.11 *Size of set nets, exceptions.* No set net shall exceed 16 feet in depth, hung measure. The individual and aggregate lengths of any and all gill nets aboard any fishing boat or in use by any person shall not exceed in hung measure the following:

(a) *Disenchantment and Yakutat Bays.* 75 fathoms each net and 75 fathoms aggregate.

(b) *Situk-Ahrnklin Inlets, Italio River, and Lost River.* 25 fathoms each net and 25 fathoms aggregate: *Provided*, That in Divide Slough nets shall not exceed 15 fathoms each or 15 fathoms aggregate.

(c) *Ahquay Inlet, Dangerous, Alsek, Dohn and East Rivers.* 25 fathoms each net and 75 fathoms aggregate.

(d) [Reserved.]

(e) *General.* Other waters, including the surfline beyond the outermost bars at mean low tide; 15 fathoms each net and 15 fathoms aggregate.

§ 114.13 *Marking of set nets.* Each set net in operation shall be marked by clusters of bright red floats or corks at both ends, each cluster to be legibly marked with the initials of the operator.

§ 114.34 *Closed waters.* Fishing is prohibited as follows:

(a) *Alsek River.* Above a point on the Alsek River approximately 2½ miles below the "Basin".

(b) *Situk River.* At the marker approximately ½ mile west of Strawberry Point to the cut bank on the eastern side of the terminus of Johnson Slough.

(c) *Ankau Inlet.*

(d) *Italio River.* Above the markers.

(e) *Dohn River.* Above the markers at approximately ½ mile upstream.

(f) *East River.* Above the markers at approximately ½ mile upstream prior to August 10, and 5 miles upstream after August 9.

(g) *Akwe River.* Above the markers at approximately 4 miles upstream.

(h) *Lost River.* Above the markers approximately 500 yards from the outermost tree line on the west bank.

PART 115—SOUTHEASTERN ALASKA AREA

Sec.
115.1 Definition.

SALMON FISHERY

115.2 Definitions, fishing districts and sections.
115.3 Registration.
115.5 Seasons, weekly closed periods.
115.6 Seasons, trolling.
115.7 Seasons, traps.
115.8 Fall season.
115.10 Gear restrictions.
115.11 Size and operation of drift nets.
115.15 Size and operation of set nets.
115.17 Size and operation of purse seines.
115.18 Maximum length of seine boats.
115.19 Size and operation of beach seines.
115.22 Size of floating traps.
115.25 Distance between traps.
115.27 Areas open to traps.
115.34 Closed waters.
115.38 Protection of small King salmon.

HERRING FISHERY

115.50 Closed seasons.
115.51 Gear restrictions.
115.52 Restrictions on bait fishing.
115.53 Closed waters.
115.54 Quotas.
115.57 Restricted waters.

BOTTOM FISH FISHERY

115.60 Season, sablefish.

SHELLFISH FISHERY

115.72 Season, butter clams.
115.86 Season, shrimp.

PERSONAL USE FISHERY

115.92 Closed waters.
115.93 King salmon.
115.94 Bag limit.

AUTHORITY: §§ 115.1 to 115.94 issued under sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221.

§ 115.1 *Definition, southeastern Alaska area.* The southeastern Alaska area includes all waters of Alaska in southeastern Alaska between Cape Fairweather and Dixon entrance.

SALMON FISHERY

§ 115.2 *Definitions, fishing districts and sections.*—(a) *Icy Strait district.* Within a line from a point at 58°07'20" N. lat., 136°51' W. long. to Column Point, thence southerly following the watershed along the east side of Lisianski Inlet to 58° N. lat., thence to and along the north shore of Tenakee Inlet to Portage, thence following the watershed to the light at Point Augusta, including all waters of Port Frederick, thence to the southeastern extremity of Point Couverden, thence to Mount Harris, thence following the international boundary to Mount Fairweather, thence to Cape Fairweather at 58°49' N. lat., 138° W. long., thence to the point of beginning. Fishing sections:

(1) Western; west of the longitude of Point Carolus.
(2) Eastern; east of the longitude of Point Carolus.

(b) *Western district.* Within a line from a point at 56°06' N. lat., 134°51' W. long., to a point at 57° N. lat., 136°04' W. long., thence to a point at 58°07'20" N. lat., 136°51' W. long., thence to Column Point, thence following the watershed along the east side of Lisianski Inlet to 58° N. lat., thence to and along the north

shore of Tenakee Inlet to Portage, thence following the watershed to the light at Point Augusta, excluding all waters of Port Frederick, thence to the southeastern extremity of Point Couverden, thence to Mount Harris, thence following the international boundary to Mount Ogilvie, thence to the northern extremity of Shelter Island, thence to the northern extremity of Mansfield Peninsula, thence following the watersheds on Mansfield Peninsula and Admiralty Island to the southern extremity of Point Gardner, thence west to the watershed on Baranof Island, thence following the watershed to the southern extremity of Cape Ommaney, thence to the point of beginning. Fishing sections:

(1) Northern section: (i) North of Sullivan Island: North of a true east and west line through the northern extremity of Sullivan Island.

(ii) South of Sullivan Island: Between a true east and west line through the northern extremity of Sullivan Island and a true line eastward from the southeastern extremity of Point Couverden.

(2) Central section: Between a true line eastward from the southeastern extremity of Point Couverden and a true line eastward from the northeastern extremity of South Passage Point.

(3) Southern section: South of a true line eastward from South Passage Point, and east of Rapids Island in Sergius Narrows, Peril Strait, including Hoonah Sound.

(4) Western section: West of Rapids Island in Sergius Narrows, Peril Strait, and including waters on the west coasts of Chichagof and Baranof Islands.

(c) *Eastern district.* Within a line from 55°54' N. lat., 134°34' W. long., to the southern end of Cape Decision, thence following the watershed on Kulu Island to 56°40' N. lat., 133°44'15" W. long., thence east across Keku Strait, thence across Kupreanof Island, passing north of Duncan Canal, to 56°54' N. lat., thence to Horn Cliffs, thence to Castle Mountain, thence following the international boundary to Mount Ogilvie, thence to the northern extremity of Shelter Island, thence to the northern extremity of Mansfield Peninsula, thence following the watersheds on Mansfield Peninsula and Admiralty Island to the southern extremity of Point Gardner, thence west to the watershed on Baranof Island, thence following the watershed to the southern extremity of Cape Ommaney, thence to 56°6' N. lat., 134°51' W. long., thence to the point of beginning. Fishing sections:

(1) Taku Inlet-Port Snettisham section: Within a line from Point Bishop to 58°11'28" N. lat., 134°5' W. long., and northeast of a line from Point Styleman to Point Anmer.

(2) Southern section: All waters south of a line from Point Ellis to Patterson Point.

(3) General section: All waters not otherwise described.

(d) *Stikine district.* Within a line commencing at Castle Mountain and passing successively through Horn Cliffs, Frederick Point, Point Alexander, Low Point, Drag Island, Chichagof Peak,

Hour Point, Babbler Point, and Mount Cote.

(e) *Sumner Strait district.* Within a line commencing at Mount Cote and passing successively through Babbler Point, Hour Point, Chichagof Peak, Drag Island, Low Point, Point Alexander, Frederick Point, Horn Cliffs, Kupreanof Island east shore at 56°54' N. lat., the northernmost end of Duncan Canal, Keku Strait at 56°40' N. lat., the watershed of Kulu Island, and the latitude of Cape Decision projected westerly; and a line following the watershed of Cleveland Peninsula from the International Boundary to Union Point and passing successively through Ernest Point, the southernmost point on Etolin Island, the watershed of Etolin Island, Point Harrington, the northern end of East Island, the southern end of West Island, Prince of Wales Island east shore at 56°09'15" N. lat., El Capitan Passage at 56°07'36" N. lat., the watershed of Kosciusko Island, the southernmost point on Kosciusko Island, Wood Island, and the latitude of Wood Island projected westerly. Fishing sections:

(1) Anan section: Ernest Sound, Bradford Canal, and contiguous waters, excluding Zimovia Strait, northwest of a line from Thorns Point to an unnamed islet at 56°06'10" N. lat., 132°06' W. long.

(2) General section: All other waters of the district.

(f) *Clarence Strait district.* Within a line from 54°44'21" N. lat., 132°18'36" W. long., near Point Marsh, thence south to the international boundary at 132°20' W. long., thence east along the international boundary to 131° W. long., thence to Mary Island light, Hog Rocks light, Bold Island light, Race Point, thence to the southern extremity of Gravina Point, thence to the northern extremity of Valenar Point, thence to Point Higgins, thence along the watershed of Revillagigedo Island to Claude Point, Point Lees, Mount Lewis Cass, thence along the watershed to 55°45'30" N. lat., 132° W. long., thence through Union Point to Ernest Point, thence to 55°54'45" N. lat., 132°21' W. long., thence along the watershed of Etolin Island to 56°09'45" N. lat., 132°37'15" W. long., thence to 56°06' N. lat., 132°37'15" W. long., thence along the watershed to Point Harrington, thence to the northern extremity of East Island, thence to the southern extremity of West Island, thence to 56°09'15" N. lat., 133°02'45" W. long., thence southerly along the watershed of Prince of Wales Island to the point of beginning. Fishing sections:

(1) Northern section: North of a line from Narrow Point to Ernest Point.

(2) Central section: Between a line from Narrow Point to Ernest Point and a line from Approach Point to Caamano Point.

(3) Southeast section: South of a line from Approach Point to Caamano Point and east of a line down the middle of Clarence Strait, excluding the North Arm of Behm Canal.

(4) Southwest section: South of a line from Approach Point to Caamano Point and west of a line down the middle of Clarence Strait.

(5) North Behm Canal section: Between a line from Caamano Point to Point Higgins and a line from Point Lees to Claude Point.

(g) *West coast district.* Within a line from 55°40' N. lat., 134°17'10" W. long., thence to 55°25'30" N. lat., 134° W. long., thence to 54°40' N. lat., 133°35' W. long., thence to Cape Muzon, thence along the international boundary to 132°20' W. long., thence to 54°44'21" N. lat., 132°18'36" W. long., thence along the watershed of Prince of Wales Island to 56°07'36" N. lat., thence to the east coast of Kosciusko Island, thence along the watershed of Kosciusko Island to 133°43' W. long., thence to 55°40' N. lat., thence to the point of beginning.

(h) *Southern district.* Within a line following the international boundary from 131 degrees west longitude to Mount Lewis Cass, thence to Point Lees, Claude Point, along the watershed of Revillagigedo Island to Point Higgins to Valenar Point along the watershed of Gravina Island to Gravina Point, Race Point, Bold Island light, Hog Rocks light, Mary Island light, and to the point of beginning. Fishing sections:

(1) Portland Canal: Portland and Pearse Canals and contiguous waters between the Canadian boundary and a line from Akeku Point passing successively through Male Point, Dark Point, High Point, Tongass Reef light, Katakwa Point, Garnet Point and south to the international boundary.

(2) General section: All waters of the district not included in the Portland Canal section.

§ 115.3 *Registration.* (a) During any season open specifically for chum salmon fishing, or for drift net fishing along the northeast shore of Prince of Wales Island, no boat shall fish in, or depart after fishing, any waters open specifically for chum salmon, or drift net fishing along the northeast shore of Prince of Wales Island without first notifying the local representative of the Bureau, and submitting his boat for inspection when requested.

(b) From July 7 to July 26, inclusive, all seine boats must be registered with the local representative of the Bureau, (1) before fishing in the area west of a line from Cape Muzon projected through Cape Ulitka, and (2) before leaving the West Coast district with salmon aboard.

§ 115.5 *Seasons, weekly, closed periods.*—(a) *Icy Strait district.* (1) Fishing, other than trolling, is prohibited except (i) in the Western section from 6 a. m. June 23 to 6 p. m. August 2, and (ii) in the Eastern section from 6 a. m. June 23 to 6 p. m. August 7. From August 1 to September 20 in the Western section, the weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(2) Port Frederick: Within a line from Inner Point Sophia to the northwest of Halibut Island, thence 323° true to Chichagof Island. Fishing, except trolling, is prohibited (i) East of a line from Inner Point Sophia to Game Point and south of 58°4'3" N. lat., and (ii) in all other waters except from 6 a. m. June 23 to 6 p. m. July 11.

(b) *Western district.* (1) Northern section: (i) North of Sullivan Island: Fishing, other than trolling, is prohibited except from 12 noon June 23 to 12 noon October 10. The weekly closed period is from 12 noon Friday to 12 noon Monday; (ii) south of Sullivan Island: Fishing, other than trolling, is prohibited except from 6 a. m. June 23 to 6 p. m. August 18. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday: *Provided*, That these prohibitions shall not apply to the use of gill nets in Berners Bay, northeast of a line from Point St. Mary to Point Bridget, from 12 noon September 2 to 12 noon September 30, with a weekly closed period from 12 noon Friday to 12 noon Monday.

(2) Central and Southern sections: Fishing, other than trolling, is prohibited except from 6 a. m. June 23 to 6 p. m. August 18. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(3) Western section: Fishing, other than trolling, is prohibited except from 6 a. m. June 23 to 6 p. m. August 25. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(c) *Eastern district.* Fishing, other than trolling, is prohibited, except: (1) Taku Inlet-Port Snettisham section: With drift nets from 12 noon May 1 to 12 noon September 30. The weekly closed period is from 12 noon Thursday to 12 noon Monday; (2) Southern section: From 6 a. m. June 23 to 6 p. m. August 25. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday; (3) General section: From 6 a. m. June 23 to 6 p. m. August 18. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(d) *Stikine district.* (1) Fishing is prohibited, except from 12 noon May 1 to 12 noon September 30: *Provided*, That this prohibition shall not apply to trolling west of Craig Point.

(2) The weekly closed period, is from 12 noon Thursday to 12 noon Monday.

(e) *Sumner Strait district.* (1) Anan section: Fishing, except trolling, is prohibited except from 6 a. m. July 14 to 6 p. m. August 18. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(2) General section, exception: Fishing, except trolling, is from 6 a. m. July 21 to 6 p. m. August 23. Prior to August 20 the weekly closed period, except for trolling is from 6 p. m. Friday to 6 a. m. Monday: *Provided*, That the above prohibitions do not apply to drift nets between 125 and 300 fathoms in length with mesh not less than 5½ inches stretched measure, from 6 a. m. June 16 to 6 p. m. July 19 in open fishing waters lying between Prince of Wales Island and a line extending from the shoreline at 133°31'30" W. long. and passing successively through The Eye Opener light, Rookery Island light, northwest extremity of Bushy Island, northern extremity of Blashke Island, Deichman Rock, 2 miles northeast from Luck Point and terminating at Luck Point. Part of these special gillnet waters lie in the northern section of the Clarence Strait district.

(f) *Clarence Strait district.* (1) Northern section, exception: Other than trolling, fishing is from 6 a. m. July 28 to 6 p. m. August 30. Prior to August 25 the weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday: *Provided*, That the above prohibitions shall not apply to drift nets more than 125 fathoms and less than 300 fathoms in length with mesh not less than 5½ inches stretched measure, from 6 a. m. June 16 to 6 p. m. July 19 in open fishing waters of Kashevarof Passage and Whale Pass lying between Prince of Wales Island and a line extending from the shoreline at 133°31'30" W. long. and passing successively through the Eye Opener light, Rookery Island light, northwest extremity of Bushy Island, northern extremity of Blashke Island, Deichman Rock, two miles northeast from Luck Point and terminating at Luck Point. Part of these special gill-net waters lie in the Sumner Strait district.

(2) Central section: Fishing is prohibited, except (i) for trolling from 6 a. m. April 15 to 6 p. m. October 31, and (ii) from 6 a. m. July 21 to 6 p. m. August 26. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(3) Southwest section: Other than trolling, fishing is from 6 a. m. July 28 to 6 p. m. August 30. Prior to August 25 the weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(4) Southeast and North Behm Canal sections: Other than trolling, fishing is from 6 a. m. July 14 to 6 p. m. August 23. Prior to August 20 the weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

(g) *West Coast district.* Other than trolling, fishing is from 6 a. m. July 28 to 6 p. m. August 30. Prior to August 25 the weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday: *Provided*, That these prohibitions shall not apply to purse seines from 12 noon July 7 to 6 p. m. August 30 in waters west of a line extending northwesterly from Cape Muzon projected through Cape Ulitka to the northern boundary of the district.

(h) *Southern district.* (1) General section: From 6 a. m. July 14 to 6 p. m. August 18. The weekly closed period, except for trolling, and prior to August 14, is from 6 p. m. Friday to 6 a. m. Monday.

(2) Portland Canal section: Drift nets may be used in (i) open waters from 12 noon June 16 to 6 a. m. July 11, and from 6 a. m. September 1 to 6 p. m. September 26, and (ii) north of the latitude of Hidden Point from 6 a. m. July 14 to 6 p. m. August 29. The weekly closed period, except for trolling, is from 6 p. m. Friday to 6 a. m. Monday.

§ 115.6 *Seasons, trolling.* (a) Taking of king salmon by trolling is prohibited in outside waters (exclusive of bays, inlets, sounds, channels, and straits) from 6 p. m. October 31 to 6 a. m. April 15.

(b) Taking of coho salmon by trolling is prohibited from 6 p. m. September 20 to 6 a. m. July 1.

(c) Trolling is prohibited during the month of May in Stephens Passage north of Midway Island and in Lynn Canal north of Point Retreat and in all contiguous waters.

(d) Trolling is prohibited in Behm Canal between a line from Escape Point to Point Francis and a line from Nose Point to Snail Point, and between a line from Point Sykes to Point Alava and a line from Point Eva to Cactus Point from 6 p. m. April 30 to 6 a. m. July 14.

§ 115.7 *Seasons, traps.* Fishing by means of any trap is prohibited after 6 p. m. September 20.

§ 115.8 *Fall seasons, chum salmon.* From 12 noon September 24 to 6 p. m. October 1 in the following places:

- (a) Excursion Inlet.
- (b) Hood Bay.
- (c) Chitak Bay.
- (d) Security Bay.
- (e) Port Camden.
- (f) Kasan Bay.
- (g) Cholmondeley Sound.
- (h) Moire Sound.
- (i) Klawock Inlet.

§ 115.10 *Gear restrictions.* (a) The use of gill nets is prohibited except in the northern section of the Western district north of Sullivan Island, Berners Bay, the Taku Inlet-Port Snettisham section of the Eastern district, Stikine district, Sumner Strait in the vicinity of Red and Salmon Bays, North Clarence Strait in the vicinity of Lake Bay, and the Portland Canal section of the Southern district.

(b) Fishing with set-nets is prohibited except in the northern section of the western district.

(c) Purse seines are prohibited in Lynn Canal and contiguous waters north of 58°34'10" N. lat.

§ 115.11 *Size and operation of drift nets.* (a) No gill net boat shall operate, assist in operating, or have aboard either it or any boat towed by it, more than one legal limit of gear in the aggregate.

(b) The depth of gill nets shall not exceed (1) 6-inch or less stretched mesh, 50 meshes; (2) 6½-7-inch stretched mesh, 45 meshes; and (3) 7½-9-inch stretched mesh, 40 meshes.

(c) *Western district.* (1) The aggregate length of gill nets on, or in use by, any fishing boat shall not exceed 200 fathoms, and (2) in the northern section north of Sullivan Island, no drift net shall be less than 50 fathoms in length.

(d) *Eastern district.* No gill net shall be less than 50 fathoms in length, nor more than 150 fathoms in length.

(e) *Sumner Strait and North Clarence Strait.* Only drift nets between 125 and 300 fathoms in length with mesh not less than 5½ inches stretched measure may be used from 6 a. m. June 16 to 6 p. m. July 19.

(f) *Stikine district.* (1) Fishing is prohibited, except by trolling, and by gill nets of not less than 125 fathoms nor more than 300 fathoms in length; (2) gill-net mesh shall not be less than 8½ inches stretched measure prior to June 17; and from June 17 to July 19, inclusive, shall not be greater than 6 inches stretched measure.

(g) *Southern district.* Portland Canal: No gill net shall exceed 200 fathoms in length or 60 meshes in depth.

§ 115.15 Size and operation of set nets.

(a) Set nets may be used only in the northern section of the western district north of Sullivan Island.

(b) No set net shall exceed 50 fathoms in length. The aggregate length operated by any individual, or from any boat, shall not exceed 200 fathoms.

(c) Set nets shall be set in substantially a straight line, at right angles to the beach, and shall have a minimum distance of 600 feet between nets.

§ 115.17 Size and operation of purse seines. No purse seine shall be less than 8½ fathoms nor more than 19½ fathoms in depth, nor less than 150 fathoms nor more than 250 fathoms in length, hung measure. No lead shall exceed 75 fathoms in length.

§ 115.18 Maximum length of seine boats. No boat used in operating any purse seine shall be longer than 50 feet, official registered length.

§ 115.19 Size and operation of beach seines. The use of any beach seine is prohibited: *Provided*, That beach seines not less than 65 fathoms nor more than 100 fathoms in length with mesh size not to exceed 4½ inches stretched measure between knots may be operated from the beach only in open waters of Wrangell Narrows. Each beach seining operation must be promptly and continuously carried through to completion.

§ 115.22 Size of floating traps. No floating trap shall exceed 900 feet in length when any part is in a greater depth of water than 100 feet at mean high tide. The length shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

§ 115.25 Distance between traps. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile, except in the Icy Strait district where such distance shall be not less than 1½ statute miles.

§ 115.27 Areas open to traps. The use of any trap for the capture of salmon is prohibited, except as follows:

(a) *Icy Straits district.* (1) Mainland: Within 2,500 feet of Point Dundas.

(2) Inian Islands: (i) Within 2,500 feet of 58°16'18" N. lat., 136°20'27" W. long., (ii) within 2,500 feet of 58°15'34" N. lat., 136°23'35" W. long.

(3) Island west of Three Hill Island, at 58°10'11" N. lat., 136°24'33" W. long.

(4) Chichagof Island: Within 2,500 feet of 58°13'12" N. lat., 136°09'38" W. long.

(5) Chichagof Island: Within 1,000 feet westerly from Eagle Point.

(6) Chichagof Island: From 58°16'38" N. lat. southwesterly to 58°14'56" N. lat., 135°53'34" W. long.

(7) Lemesur Island: Within 2,500 feet of 58°17'30" N. lat., 136°08' W. long.

(8) Mainland: Within 2,500 feet of 135°53'42" W. long.

(9) Pleasant Island: (i) Within 2,500 feet of 58°20' N. lat., 135°40'45" W. long.,

and (ii) from 135°35'30" W. long. to 135°33'01" W. long.

(10) Porpoise Islands: Within 2,500 feet of 58°19'08" N. lat., 135°27'22" W. long.

(11) Excursion Inlet: From 58°17'08" N. lat. southward to 135°08'31" W. long.

(12) Chichagof Island: (i) Within 2,500 feet of 58°08'40" N. lat., 135°23'59" W. long., and (ii) from 135°20' W. long. to 135°11'11" W. long.

(13) Chichagof Island: Northeastern coast within 2,500 feet of 135°01'31" W. long.

(b) *Western district.* (1) Baranof Island: From 1,000 yards southward of Point Kakul southerly ½ statute mile.

(2) Baranof Island: Within 2,500 feet of 57°20'19" N. lat., 135°40'13" W. long.

(3) Chichagof Island: (i) Within 2,500 feet of 57°59'11" N. lat., 134°54'34" W. long., (ii) within 2,500 feet of 57°56'56" N. lat., 134°55'07" W. long., and (iii) within 2,500 feet of 57°52'07" N. lat., 134°57'51" W. long.

(4) Chichagof Island: East coast (i) from 57°48'52" N. lat. to 57°48'25" N. lat., (ii) within 2,500 feet of 57°44'18" N. lat., 134°55'04" W. long., (iii) from 57°36'37" N. lat. to 57°35'52" N. lat., and (iv) within 2,500 feet of 57°30'04" N. lat., 134°49'38" W. long.

(5) Baranof Island: From ½ statute mile south of Point Thatcher to 57°23'37" N. lat.

(6) Baranof Island: From a point ½ statute mile southeasterly of South Point to the north side of the entrance to Cosmos Cove, including islets on the northeastern side of the entrance.

(7) Baranof Island: Within 2,500 feet of 57°11'03" N. lat., 134°48'43" W. long.

(8) Mansfield Peninsula: West coast within 2,500 feet of 58°16'02" N. lat.

(9) Mansfield Peninsula: (i) From the south point of entrance to Funter Bay to 58°10'45" N. lat., and (ii) from 58°09'37" N. lat. to the north side of the entrance to Hawk Inlet.

(10) Admiralty Island: West coast (i) within 2,500 feet of 57°38'32" N. lat., (ii) from 57°40'47" N. lat. to 57°43'45" N. lat., (iii) from 57°50'02" N. lat. to 57°51'07" N. lat., (iv) within 2,500 feet of 57°55'10" N. lat., and (v) from 57°58' N. lat. to 58°02'07" N. lat.

(11) Admiralty Island: West coast from 57°22'07" N. lat. to Distant Point.

(12) Killisnoo Island: South coast from 134°35'59" W. long. to Point Samuel.

(13) Admiralty Island: West coast (i) from north of Wilson Cove at 57°10'37" N. lat. to 57°10'47" N. lat., (ii) from 57°12'37" N. lat. to 57°13'07" N. lat., and (iii) within 1,000 feet of 57°13'57" N. lat.

(c) *Eastern district.* (1) Mainland: From 57°35'42" N. lat., 133°37'08" W. long., to 57°36'52" N. lat., 133°39'17" W. long.

(2) Mainland: Within 2,500 feet of 57°28'37" N. lat., 133°31'20" W. long.

(3) Mainland: Along the coast (i) within 2,500 feet of 57°21'18" N. lat., 133°26'37" W. long., and (ii) within 2,500 feet of 57°23'04" N. lat., 133°27'42" W. long.

(4) From the south side of Fanshaw Bay at 133°32'27" W. long. to Cape Fan-

shaw thence southeasterly to 133°29'57" W. long.

(5) Admiralty Island: Southeast coast (i) from Point Pybus to 57°18'57" N. lat.; and (ii) from 57°20'07" N. lat., 133°54'58" W. long., to False Point Pybus.

(6) Admiralty Island: Southeast coast (i) from 57°12'06" N. lat., to 57°11'21" N. lat.; (ii) from 57°10'36" N. lat., to Deepwater Point; (iii) within 2,500 feet of 57°08'19" N. lat., 134°17'16" W. long.; and (iv) within 2,500 feet of 57°07'28" N. lat., 134°19'30" W. long.

(7) From a point ½ statute mile southwest of Point Brightman to 57°03'25" N. lat., 134°27'18" W. long.

(8) Within 2,500 feet of 57°01'41" N. lat., 134°29'10" W. long.

(9) (i) From a point ½ statute mile southeast of Point Macartney to Point Macartney; (ii) within 2,500 feet of 57°03'23" N. lat., 134°01'51" W. long.; and (iii) within 2,500 feet of 57°04'54" N. lat., 133°56'13" W. long.

(10) Within ¼ statute mile of Cornwallis Point.

(11) Kuiu Island: Northwest coast (i) within 2,500 feet of 56°33'15" N. lat., 134°17'53" W. long.; (ii) from a point 1 statute mile north of the north side of the entrance to Washington Bay to 56°45'56" N. lat.; (iii) from 56°47'51" N. lat. to 56°48'11" N. lat.; and (iv) from 56°50'26" N. lat. to the east side of the entrance to Band Cove.

(d) *Stikine district.* There are no trap sites in the Stikine District at the present time.

(e) *Sumner Strait district.* (1) Within 1,500 feet of 55°55'56" N. lat., 133°48'22" W. long.

(2) East coast of Warren Island within 2,500 feet of 55°51'37" N. lat.

(3) (i) Within 2,500 feet from 56°13'25" N. lat., 133°52'32" W. long., and (ii) within 2,500 feet from 56°14'30" N. lat., 133°53' W. long.

(4) Kuiu Island: East coast of peninsula between Port Beauclerc and Reid Bay from 56°18'36" N. lat. northward to 56°19'6" N. lat.

(5) (i) Within 2,500 feet of 56°19'3" N. lat., 133°39'42" W. long., and (ii) within 1,500 feet of an unnamed island at the entrance to Port Protection, at 56°20'41" N. lat., 133°38'4" W. long.

(6) Prince of Wales Island: North coast between 133°29'01" W. long. and 133°33'27" W. long.

(7) Prince of Wales Island: North coast between 133°23'27" W. long. and 133°24'22" W. long.

(8) Within 4,500 feet westerly of Point Colpoys.

(9) Within 2,500 feet from 56°26'14" N. lat., 133°29'32" W. long.

(10) Etolin Island: West coast (i) from 56°16'50" N. lat. southerly to 56°16'29" N. lat., and (ii) between Steamer Point Light and Steamer Point.

(f) *Clarence Strait district.* (1) Etolin Island: West coast from 56°09'20" N. lat. to 56°07'50" N. lat.

(2) Etolin Island: West coast from 56°04'35" N. lat. to 56°03'35" N. lat.

(3) West coasts of Observation Island, Marsh Island, and the northwesternmost island of the Screen Islands group.

(4) Within 2,500 feet of 56°10'06" N. lat., 132°54'13" W. long.

- (5) Prince of Wales Island: East coast from a point 1 statute mile south of the mouth of Eagle Creek to 55°55'20" N. lat.
- (6) Prince of Wales Island: East coast from 55°51'30" N. lat. southeasterly to a point at 55°50'50" N. lat.
- (7) Prince of Wales Island: East coast from 55°47'35" N. lat. southeasterly to 55°46'45" N. lat.
- (8) Onslow Island: West coast from 55°52'57" N. lat. to Ernest Point.
- (9) Within 1,500 feet of 55°48'10" N. lat., 132°11' W. long.
- (10) Within 2,000 feet southerly of a point at 55°45'48" N. lat., 132°17'05" W. long.
- (11) Cleveland Peninsula: West coast (i) from 55°44'12" N. lat., 132°15'31" W. long., southerly to 55°43'05" N. lat., (ii) from 55°40'05" N. lat. to 55°39'35" N. lat., (iii) from 55°36'15" N. lat. to 55°34'50" N. lat., (iv) from 55°33'35" N. lat. to 55°32'35" N. lat., 132°03'55" W. long., and (v) from 55°31'27" N. lat., 132°01'55" W. long., to 131°59'55" W. long.
- (12) Westerly side of the Vallenar Rock Island 800 yards from Vallenar Point.
- (13) Gravina Island: West coast (i) from South Vallenar Point to 55°20'48" N. lat., (ii) from 55°18'50" N. lat. to 55°08'15" N. lat., including the adjacent rocky islets, and (iii) the Bronaugh Islands south of 55°07'10" N. lat.
- (14) Gravina Island: East coast (i) within 2,500 feet of 55°10'30" N. lat., including adjacent rocks, and (ii) within 2,500 feet of 55°12' N. lat.
- (15) Gravina Island: East coast from 55°15' N. lat. to 55°15'11" N. lat., 131°40'13" W. long.
- (16) Annette Island: West coast from Walden Point to Davison Point, including the west shore of Warburton Island, exclusive of the coast between 55°10'05" N. lat., and 55°11'05" N. lat.
- (17) Grindall Island: Within 3,500 feet northwesterly of Approach Point.
- (18) Prince of Wales Island: East coast (i) from 55°28'10" N. lat. to 55°28'35" N. lat., (ii) from 55°30'05" N. lat. to 55°31'05" N. lat., and (iii) from 55°38'20" N. lat. to 55°39'05" N. lat.
- (19) Within 2,500 feet southerly of 55°23'40" N. lat., 132°13'55" W. long.
- (20) Prince of Wales Island: East coast (i) from 55°20'15" N. lat. to 55°20'56" N. lat., 132°09'38" W. long., and (ii) within 2,500 feet of 55°22'22" N. lat., 132°11'15" W. long.
- (21) Prince of Wales Island: East coast (i) Wedge Island, (ii) from 55°11' N. lat. to 55°11'30" N. lat., and (iii) within 4,000 feet northerly from 55°15'05" N. lat.
- (22) Within 2,500 feet of 55°06'51" N. lat., 131°59'40" W. long.
- (23) Prince of Wales Island: East coast (i) within 1,000 feet of 55°02' N. lat., and (ii) eastern shore of Polk Island.
- (24) Prince of Wales Island: East coast, including adjacent rocks, from 54°56' N. lat. to 54°57'45" N. lat.
- (25) Prince of Wales Island: From the north side of Kendrick Bay at 131°58'25" W. long. northward, including adjacent rocks, for 2,500 feet.
- (26) From 54°49'50" N. lat., 131°57'35" W. long., to the south side of Kendrick Bay at 131°58'55" W. long.
- (27) From McLean Point 3,500 feet southward.
- (28) Prince of Wales Island: East coast from 54°42'12" N. lat. to 54°44'30" N. lat.
- (29) Prince of Wales Island: From Nichols Bay at 132°04'55" W. long. east for 5,000 feet.
- (30) Bean Island: Within 2,500 feet of 54°41'15" N. lat., 132°06'05" W. long.
- (31) From 54°42'34" N. lat., 132°09'55" W. long. to 54°41'30" N. lat., 132°07'46" W. long.
- (32) Within 3,000 feet northeasterly from 54°43'09" N. lat., 132°13'30" W. long.
- (33) Within 450 feet of 54°42'55" N. lat., 132°16'10" W. long.
- (34) Cleveland Peninsula: From the south side of Smugglers Cove at 55°34'10" N. lat. to 55°31'30" N. lat.
- (35) Within 1,500 feet of 55°30'21" N. lat., 131°57'24" W. long.
- (36) Within ½ statute mile of Escape Point.
- (37) Within 2,500 feet of 55°36'52" N. lat., 131°41'52" W. long.
- (38) Within 1½ statute miles northeasterly from 55°27'50" N. lat., 131°49'52" W. long.
- (39) Betton Island: West coast between the southern extremity of the island and 55°30'05" N. lat.
- (40) Annette Island: East coast from Harbor Point to 55°06'48" N. lat., including Ham Island.
- (41) Along the west and north sides of the westernmost island of the Percy Islands group.
- (42) Duke Island: Within 1,500 feet of Flag Point.
- (43) Duke Island: Within 2,500 feet of Duke Point.
- (44) Kelp Island: Southern coast from a point at 131°16'06" W. long., to the eastern extremity of the island.
- (g) *West Coast district.* (1) Noyes Island: North coast between 133°39'57" W. long. and 133°42'13" W. long.
- (2) Within 2,500 feet of Cape Ulitka at 55°33'42" N. lat., 133°43'40" W. long.
- (3) Within 2,500 feet of 55°27'32" N. lat., 133°48'08" W. long.
- (4) From Point Garcia to 55°34'07" N. lat., 133°23'57" W. long.
- (5) From 1½ statute miles southwest of Fern Point to 2 statute miles northeasterly of Point Amargura.
- (6) St. Philip Island: Within 2,500 feet of the western extremity.
- (7) Blanquiza Island: West of 133°23'57" W. long.
- (8) San Christoval Channel from 55°37'06" N. lat., to 133°17'20" W. long.
- (9) St. Ignace Island: Within ¾ statute mile of the southern extremity.
- (10) Baker Island: East coast from Point Maria to Point Capones.
- (11) Suemez Island: Northern coast from 55°20' N. lat., 133°23'38" W. long., to 133°20'36" W. long.
- (12) Prince of Wales Island: From north of Point Providence at 133°15'10" W. long. to a point between Tranquil Point and Point Batan at 133°12'56" W. long.
- (13) From the south side of McLeod Bay at 54°41'07" N. lat., to Kaigani Village, including nearby island within 300 feet of 54°40'34" N. lat., 132°39'46" W. long.
- (14) Long Island: West coast within 2,500 feet of 54°46'19" N. lat.
- (15) Sukkwan Island: Southwestern coast (i) from 55°02'35" N. lat., to 55°01'20" N. lat.; and (ii) within 2,500 feet of 55° N. lat., 132°46' W. long.
- (16) Within 2,500 feet of 55°02'20" N. lat., 132°35'18" W. long.
- (17) From Point Webster to 54°55'52" N. lat., 132°32'30" W. long.
- (18) Within 300 yards west of 54°53'39" N. lat., 132°30'06" W. long.
- (19) Within 2,500 feet of 54°53'40" N. lat., 132°26'27" W. long.
- (20) From 55°43'13" N. lat., 133°37'20" W. long., to 55°41'36" N. lat., 133°31'37" W. long.
- (21) Tuxekan Island: Western coast from 55°52'56" N. lat. southerly to 55°52'21" N. lat.
- (22) Tuxekan Island: Western coast within 1,000 feet of the western extremity of Turn Point.
- (h) *Southern district.* (1) Revillagigedo Island: (i) Southwest coast from Carroll Point to 131°27'26" W. long., including the southern shore of the island at 55°16'57" N. lat., 131°28'24" W. long., and (ii) within 2,500 feet of 55°15'36" N. lat., 131°21'15" W. long.
- (2) From Cone Point to 55°11'41" N. lat., 131°10'36" W. long., including Cone Island.
- (3) Along the coast (i) from Point Sykes to 55°09'56" N. lat., and (ii) from 55°08' N. lat., to 55°06'44" N. lat., 131°02'47" W. long.
- (4) Southwestern coast of island located at 55°02'47" N. lat., 131°00'27" W. long.
- (5) From 55°01'59" N. lat., 130°59'54" W. long. to 55°01'20" N. lat.
- (6) (i) from within ½ statute mile northward of Foggy Point to 54°54'05" N. lat.; (ii) from 54°53'05" N. lat. to 54°51'35" N. lat.; and (iii) from 54°49'30" N. lat. to 54°46'30" N. lat., 130°52'42" W. long.
- (7) Cape Fox Island and within 1,000 feet of an island near the western mainland shore at 54°45'47" N. lat.
- (8) Within 2,500 feet southwesterly of 54°46'48" N. lat., 130°48'10" W. long.
- (9) Tongass Island: West coast, including adjacent rocks within 2,000 feet of 54°46'36" N. lat.
- (10) From 54°44'35" N. lat., 130°43'12" W. long., to Garnet Point.
- (11) Sitklan Island: Within ½ statute mile of the southern extremity.

§ 115.34 *Closed waters.* Except after September 1 where fall seasons have been provided in § 115.8.

(a) *Icy Strait district.* (1) Dundas Bay, north of 58°20' N. lat.

(2) Idaho Inlet, south of 58°8'20" N. lat.

(3) Glacier Bay, north of 58°27'54" N. lat.

(b) *Western district.* Fishing is prohibited as follows:

(1) Wilson Cove: All waters.

(2) Whitewater Bay: All waters within a line from Point Caution to Woody Point.

- (3) Chalk Bay: East of 134°28'59" W. long.
- (4) Kootznahoo Inlet: All waters.
- (5) Warm Spring Bay: All waters.
- (6) Kelp Bay: Middle Arm, and South Arm west of 134°56'59" W. long.
- (7) Hanus Bay: South of a line from Point Hanus to Point Moses.
- (8) Rodman Bay: West of 135°21'59" W. long.
- (9) Sitkoh Bay: Within 1,000 yards of the terminus of any salmon stream.
- (10) Basket Bay: All waters.
- (11) Hawk Inlet: All waters.
- (12) Salt Lake Lagoon, Takanis Bay: The Lagoon and within 500 yards of its mouth.
- (13) Redfish Bay: Within a true east and west line through the southern end of the Second Narrows.
- (14) Still Harbor: All waters.
- (15) Port Banks, off Whale Bay: All waters.
- (16) Redoubt Bay: Within 1½ statute miles of the terminus of the outlet stream of Redoubt Lake.
- (17) Fish Bay, northwest coast of Baranof Island: East of 135°37' W. long.
- (18) Chilkoot Inlet: Within 1 statute mile of the terminus of Chilkoot River.
- (19) Hood Bay, South Arm: Within a line 2,500 yards from the head.
- (20) Tenakee Inlet: Except for trolling, all bays tributary to Tenakee Inlet and west of 135°40' W. long.
- (21) Fresh Water Bay: Except for trolling, within 1 statute mile of the terminuses of all salmon streams.
- (c) *Eastern district.* Fishing is prohibited as follows:
- (1) Port Houghton: Sanborn Canal.
- (2) Windham Bay: East of a line extending across the narrows, which are at 133°20'07" W. long.
- (3) Limestone Inlet: All waters.
- (4) Gambier Bay: West of 134°02'58" W. long.
- (5) Port Camden: South of 56°40'07" N. lat.
- (6) Kadak Bay: Within a line from 56°48'27" N. lat., 133°56'15" W. long., to 56°49'47" N. lat., 133°57'27" W. long.
- (7) Hamilton Bay: All waters east of 133°46'57" W. long.
- (8) Keku Strait: Keku Strait, including Big Johns Bay, within a line from 56°35'07" N. lat., 133°42'32" W. long., to 56°35'07" N. lat., 133°39'57" W. long., and a line from Point Camden to 56°48'47" N. lat., 133°45'57" W. long.
- (9) Tebenkof Bay: Elena Bay north and east of a line from 56°29'56" N. lat., 134°06'28" W. long., to 56°29'05" N. lat., 134°05'28" W. long.
- (10) Bay of Pillars: East of 134°11'40" W. long.
- (11) Security Bay: Within 1,000 yards of the terminus of any salmon stream.
- (12) Saginaw Bay: Within a line from the southwest shore at 56°51'36" N. lat. to the northeast shore at 56°53'06" N. lat.
- (13) Red Bluff Bay: West of 134°45'28" W. long.
- (14) Gut Bay: West of 134°43'28" W. long.
- (15) Little Port Walter: All waters.
- (16) East of a line from high tide mark on Taku Point true north.

- (d) *Stikine district.* Fishing is prohibited as follows: Blind Slough.
- (e) *Sumner Strait district.* Fishing is prohibited as follows: (1) Salmon Bay: The bay and within ½ statute mile outside the mouth.
- (2) Red Bay: South of a true east west line through the north shore of Dead Island.
- (3) Olive Cove: All waters.
- (4) Thomas Place, Zimovia Strait: All waters.
- (5) Fools Inlet: Within 1 statute mile of the terminus of the salmon stream at the head.
- (6) Duncan Canal: Within 1 statute mile of any salmon stream.
- (7) Kah Sheets Bay: Within 1,000 yards of the terminus of the salmon stream at the head.
- (8) Totem Bay: Within 1,000 yards of the terminus of any salmon stream at the head.
- (9) Barrie Creek, Kupreanof Island: Within 2 statute miles of the terminus of the creek.
- (10) Keku Strait, Big Johns Bay: Within a line from 56°35'07" N. lat., 133°42'32" W. long., to 56°35'07" N. lat., 133°39'57" W. long., and a line from Point Camden to 56°48'47" N. lat., 133°45'57" W. long.
- (11) Three Mile Arm: Within 1,000 yards of the terminus of any salmon stream.
- (12) Seclusion Harbor: All waters.
- (13) Port Beauclerc: Within 1,000 yards of the terminus of any salmon stream.
- (14) Affleck Canal: Bear Harbor north of 56°15'06" N. lat., and East Arm north of 56°17'36" N. lat.
- (15) Calder Bay: North of 56°11'12" N. lat.
- (16) El Capitan Passage: Between 56°07'36" N. lat. and a line extending due north from 56°08'53" N. lat., 133°27'37" W. long.
- (17) Shipley Bay: East of 133°33'05" W. long.
- (18) Hole in the Wall, northwest coast of Prince of Wales Island: All waters.
- (19) Bradfield Canal: East of 131°54'30" W. long.
- (20) Fall Creek, Wrangell Narrows: Between the latitude of the boat mooring float at the end of the Petersburg road and the latitude of navigation marker number 46.
- (21) Blake Channel and Eastern Passage: North of 56°12' N. lat. and in Eastern Passage south of Babbler Point: *Provided*, That this prohibition shall not apply to trolling prior to 6 p. m. May 31 and after 6 a. m. October 6.
- (22) Anita Bay: Fishing, other than trolling, is prohibited.
- (f) *Clarence Strait district.* Fishing is prohibited as follows:
- (1) Moira Sound: South Arm south of 54°57'34" N. lat., all waters in Frederick Cove, Kegan Cove, and within 1,000 yards of the terminus of any salmon stream in Johnson Cove.
- (2) Dolomi Bay, tributary to Port Johnson: All waters.
- (3) Cholmondeley Sound: Dora Bay and Sunny Cove.
- (4) Skowl Arm: McKenzie Inlet south of 55°21'35" N. lat., and Polk Inlet south of 55°25'15" N. lat.

- (5) Twelvemile Arm: The west side within a line from 55°27'15" N. lat., 132°39'55" W. long., to 55°28'46" N. lat., 132°38'25" W. long.
- (6) Karta Bay: Within 1 statute mile of the terminus of any salmon stream.
- (7) Thorne and Tolstoi Bays: Within 1 statute mile of the terminus of any salmon stream, and Thorne Bay west of 132°28'35" W. long.
- (8) Ratz Harbor: All waters.
- (9) Eagle Creek, about 1 mile south of Luck Point: All waters within 1 statute mile of the terminus of the creek.
- (10) Barnes Lake, at head of Lake Bay: Within 500 yards outside its entrance.
- (11) Whale Passage: Within 1,000 yards of the terminus of any salmon stream.
- (12) McHenry Inlet: Within 1,000 yards of the salmon streams at the head.
- (13) Rocky Bay, west coast of Etolin Island: Within 1 statute mile of the head.
- (14) Yes Bay: Within the bay and outside the entrance within 1,000 yards of a line from Bluff Point to Syble Point.
- (15) Shrimp Bay: East of a line from Dress Point to the opposite shore.
- (16) Traitors Cove: Within a line 50 yards outside the neck of the salt-water lagoon.
- (17) Naha Bay: Within 1 statute mile of the falls at the outlet of Roosevelt Lagoon.
- (18) Raymond Cove: Within a line from Mike Point to 55°37'45" N. lat., 131°51'50" W. long.
- (g) *West Coast district.* Fishing is prohibited, as follows:
- (1) Klawak Inlet: All waters east of 133°05' W. long.
- (2) Klawak Harbor: All waters south of 55°33'27" N. lat.
- (3) Trocadero Bay: All waters east of a true north and south line through the eastern extremity of the peninsula just south of Copper Mine.
- (4) Manhattan Arm: East of 133°10' W. long.
- (5) Ham Cove: All waters.
- (6) Kasook Inlet: All waters within 1 statute mile of head.
- (7) Hetta Inlet: Within a true north and south line through the western extremity of Gould Island.
- (8) Deer Bay: All waters.
- (9) Hetta Harbor: All waters.
- (10) Eek Inlet: All waters.
- (11) Hunter Bay: Within 1 statute mile outside the terminuses of all salmon streams.
- (12) Devilfish Bay: All waters.
- (13) Sarkar Cove: All waters.
- (14) Tuxekan Passage: East of 133°17' W. long.
- (h) *Southern district.* Fishing is prohibited, as follows:
- (1) Hidden Inlet: North of 55°00'05" N. lat.
- (2) Fillmore Inlet: East of 130°29'54" W. long.
- (3) Willard Inlet: North of 54°56'35" N. lat.
- (4) Ray Anchorage: All waters.
- (5) Very Inlet: All waters.
- (6) Boca de Quadra: Within 1 statute mile of the terminus of any salmon stream.

(7) George Inlet: North of a line from Bat Point to Tsa Cove.

(8) Smeaton Bay: Within 1 statute mile outside the terminus of the salmon stream in Wilson Arm, and Bakewell Arm east of 130°39'54" W. long.

(9) Rudyerd Bay: The north arm within 2 statute miles of the terminus of any salmon stream.

(10) Portland Canal: North of a line extending from Engineer's Point true west.

(11) Tongass Narrows: Fishing, except by trolling, is prohibited in the waters of Tongass Narrows between a line from Mountain Point to Gravina Point and a line from Point Higgins to Vallenar Point.

§ 115.38 *Protection of small king salmon.* King salmon shall either (a) measure at least 26 inches from tip of snout to fork of tail, or (b) weigh at least 6 pounds dressed. Such undersized fish as are taken must be returned to the water without injury.

HERRING FISHERY

§ 115.50 *Closed seasons.* Fishing, except for bait and except by gill nets, is prohibited from March 1 to June 14, inclusive: *Provided*, That this prohibition shall not apply after May 31 in the Sumner Strait, Clarence Strait, and South Prince of Wales Island districts.

§ 115.51 *Beach seines limited.* Fishing for herring, including bait fishing, by means of any beach seine on any herring spawning ground is prohibited.

§ 115.52 *Restrictions on bait fishing.* Fishing is restricted (1) to 125 short tons for bait only in Silver Bay east of 135°15' W. long., and (2) to fishing for bait or with gill nets in Krestof and Sitka Sounds east of a line extending from Cape Edgecumbe to Point Woodhouse on Biorka Island, and thence to the eastern extremity of Elovai Island.

(b) Fishing is restricted to a take of 125 short tons for use as bait, in waters surrounding Fish Egg Island north and east of a line from Cape Flores to Point Amargura, and thence to Point Ildefonso.

§ 115.53 *Closed waters.* Fishing for herring, including bait fishing, by means of any purse seine is prohibited in the waters on the west side of Cleveland Peninsula between 55°46' N. lat., and 55°44' N. lat., and east of 132°17'30" W. long.

§ 115.54 *Quotas.* The take of herring, except for bait and except by gill nets, is limited as follows:

(a) Not more than 10,000 short tons may be taken in the Clarence Strait, Sumner Strait, and South Prince of Wales districts, of which not more than 5,000 short tons may be taken in the Clarence Strait district south of the latitude of Ernest Point.

(b) Not more than 22,500 short tons may be taken in the waters of the Eastern and Western districts, of which not more than 6,250 short tons may be taken on the west coasts of Chichagof and Baranof Islands in an area bounded by a line due west from Cape Bingham; a line across Peril Strait at Kakul Narrows; and a line

from Cape Ommaney to Nation Point on Coronation Island.

(c) Not more than 10,000 short tons may be taken after July 15 in that part of the Eastern and Western districts south of a line from Swaine Point to the northern entrance to Snipe Bay.

§ 115.57 *Restricted waters.* (a) Fishing, except for bait and except by gill nets, is prohibited within (1) Icy Strait and Cross Sound, (2) Chatham Strait and Lynn Canal north of a line from South Passage to Marble Bluff, and (3) Stephens Passage north of a line from Point Arden to Bishop Point.

(b) Fishing, except for bait and except by gill nets, is prohibited in the waters of Tongass Narrows and northern Revillagigedo Channel from the latitude of Guard Island to the latitude of Point Alava.

(c) From June 1 to October 15, inclusive, fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

BOTTOM FISH FISHERY

§ 115.60 *Season.* Commercial fishing for sablefish is prohibited prior to May 1 and after November 30 in each calendar year.

SHELLFISH FISHERY

§ 115.72 *Season, butter clams.* The taking of butter clams, other than bait, is prohibited in the period from April 15 to September 15, inclusive.

§ 115.86 *Season, shrimp.* Fishing for shrimp is prohibited in the period from February 15 to April 30, inclusive, in the Stikine district, the Eastern district east of the longitude of Cape Fanshaw, and in the Sumner Strait district north of the latitude and east of the longitude of Point Baker.

PERSONAL USE FISHERY

§ 115.92 *Closed waters, salmon—*(a) *Western district.* Redoubt Bay: Fishing with gill net, seine, or trap is prohibited in all waters of the bay closed to commercial fishing.

(b) *Eastern district.* Fishing for personal use, except with hand rod, hook and line, is prohibited as follows:

(1) Auke Creek, and within 500 yards outside its mouth.

(2) Salmon Creek, tributary to Gastineau Channel.

(3) Steep Creek.

(4) Lake Creek (tributary to Auke Lake).

(5) Stephens Passage, north of Midway Island and in Lynn Canal north of the latitude of Point Retreat and all contiguous waters, exclusive of the Chilkat River and the Taku Inlet-Port Snettisham section during the month of May.

(6) Fish Creek, north end of Douglas Island.

(c) *Southern district.* Fishing for, taking or molesting any salmon by any means, or for any purpose, is prohibited in:

(1) Salt water in Behm Canal and contiguous bays north of a line from Point Eva to Cactus Point.

(2) Ketchikan Creek and Thomas Basin.

§ 115.93 *Restrictions on taking king salmon in salt water.* The taking of king salmon in salt water by hook and line for sport or personal use shall be limited to:

(a) The use of not to exceed one line per person.

(b) A bag limit of either (1) 50 pounds and one fish, or (2) three fish, whichever is less restrictive.

(c) Fish over either: (1) 26 inches from tip of snout to fork of tail, or (2) six pounds dressed weight.

§ 115.94 *Bag limit—*(a) *Eastern district.* It is prohibited to take more than 15 salmon less than 18 inches in length in the fresh waters of the Mendenhall River and Jordan Creek drainages, and all tributaries and impoundments within these drainages.

(b) *Southern district.* The taking of salmon for sport, or personal use, shall not exceed a bag limit of two fish and shall be only by means of hook and line, spear or gaff in the waters of: Ward Cove, Lake, and Creek.

PART 130—NORTH PACIFIC AREA

Sec.
130.1 Definition.

SALMON FISHERY

130.10 Salmon fishing prohibited, exception.

AUTHORITY: §§ 130.1 and 130.10 issued under sec. 12, 68 Stat. 700, as amended; 16 U. S. C. 1031.

§ 130.1 *Definition.* The North Pacific area is defined to include all waters of the North Pacific Ocean and Bering Sea north of latitude 48°30' N. and E. of long. 175° W., exclusive of the waters of Alaska as defined in Part 101 of this subchapter.

SALMON FISHERY

§ 130.10 *Salmon fishing prohibited, exception.* No person or fishing vessel subject to the jurisdiction of the United States shall fish for or take salmon, except by trolling in the North Pacific area, as defined in this part: *Provided*, That this shall not apply to fishing for sockeye salmon or pink salmon south of latitude 49° N.

Temporary Changes

Parts 107 and 115 are hereby amended, effective only through December 31, 1958, as set forth below:

PART 107—CHIGNIK AREA

Section 107.27 is suspended effective through December 31, 1958.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

PART 115—SOUTHEASTERN ALASKA AREA

§ 115.27 *Areas open to traps.* The use of any trap for the capture of salmon is prohibited, except as follows:

(a) *Icy Straits district.*

NOTE: Effective only through December 31, 1958, § 115.27 (a) is amended by deleting subparagraphs (1), (2), (3), (8), (9) (11), (10), (12) (1), and (13); and by revising subparagraphs (6), (11), and (12) (11).

(6) Within 2,500 feet of 58°15'26" N. lat., 135°49'56" W. long.

(11) Within 2,500 feet of the following: (i) 58°14'13" N. lat., 135°17'34" W. long.; (ii) 58°15'24" N. lat., 135°19'31" W. long.

(12) * * * (ii) Within 2,500 feet of 58°5'43" N. lat., 135°13'21" W. long.

(b) *Western district.*

NOTE: Effective only through December 31, 1958, § 115.27 (b) is amended by deleting paragraphs (1), (2), (4) (i), (5), (7), (10) (i), and (12); and by revising paragraphs (6), (9) (i) and (10) (ii) and (v).

(6) Baranof Island: Within 2,500 feet of 57°14'40" N. lat., 134°50'05" W. long.

(9) Mansfield Peninsula: (i) Within 2,500 feet of the following: (a) 58°11'32" N. lat., 134°53'38" W. long. and (b) 58°10'59" N. lat., 134°52'16" W. long. * * *

(10) Admiralty Island: West coast: * * * (ii) within 2,500 feet of 57°43'23" N. lat., 134°43'50" W. long., * * * and (v) from 57°58" N. lat. to 58°30" N. lat.

(c) *Eastern district.*

NOTE: Effective only through December 31, 1958, § 115.27 (c) is amended by deleting subparagraphs (3) (i), (6) (ii), (iii), and (iv), (8), and (11) (iii); and by revising paragraphs (4), (5) (ii), (7), and (11) (ii).

(4) Within 2,500 feet of the following: (i) 57°11'32" N. lat., 133°32'27.3" W. long., and (ii) 57°10'52" N. lat., 133°32'44" W. long.

(5) Admiralty Island: Southeast coast * * * (ii) within 2,500 feet of 57°20'59" N. lat., 133°52'53" W. long.

(7) Within 2,500 feet of the following: (i) 57°05'18" N. lat., 134°22'54" W. long.; (ii) 57°04'36" N. lat., 134°24'05" W. long., and (iii) 57°03'38" N. lat., and 134°26'50" W. long.

(11) Kulu Island: Northwest coast within 2,500 feet of the following: * * * (ii) 56°45'51" N. lat., 134°23'30" W. long., * * *

(e) *Sumner Strait district.*

NOTE: Effective only through December 31, 1958, § 115.27 (e) is amended by deleting subparagraphs (1), (2), (3), (4), (5) (i), (7), (9) and (10) (i); and by revising subparagraph (6).

(6) Within 2,500 feet of 56°20'41" N. lat., 133°30'13" W. long.

(f) *Clarence Strait district.*

NOTE: Effective only through December 31, 1958, § 115.27 (f) is amended by deleting subparagraphs (1), (7), (9), (10), (12), (13) (iii), (14) (i), (18) (iii), (20) (ii), (21) (i), (23) (ii), (29), (30), (32), (34), (36), (37), (38), (39), (42), and (44); and revising subparagraphs (3), (5), (11) (i) and (v), (13) (ii), and (16).

(3) Within 2,500 feet of 56°06'57" N. lat., 132°43'03" W. long.

(5) Within 2,500 feet of the following: (i) 55°56'20" N. lat., 132°40'15" W. long., and (ii) 55°55'39" N. lat., 132°38'54" W. long.

(11) (i) Within 2,500 feet of 55°43'26" N. lat., 132°14'57" W. long., * * * (v) within 2,500 feet of 55°30'45" N. lat., 132°00'55" W. long.

(13) Gravina Island: West coast: * * * (ii) within 2,500 feet of the following: (a) 55°18'48" N. lat., 131°52'03" W. long., (b) 55°16'58" N. lat., 131°51'21" W. long., (c) 55°15'11" N. lat., 131°15'19" W. long., (d) 55°13'43" N. lat., 131°50'16" W. long., (e) 55°10'48" N. lat., 131°49'06" W. long., (f) 55°10'00" N. lat., 131°48'16" W. long., (g) 55°09'10" N. lat., 131°47'25" W. long.

(16) Within 2,500 feet of the following: (i) 55°05'41" N. lat., 131°26'39" W. long., (ii) 55°02'47" N. lat., 131°38'53" W. long., (iii) 55°00'45" N. lat., 131°38'30" W. long.

(g) *West Coast district.*

NOTE: Effective only through December 31, 1958, § 115.27 (g) is amended by deleting subparagraphs (1), (6), (9), (11), (16), and (21); and revising subparagraphs (4), (8), (12), (13), (17), and (20).

(4) Within 2,500 feet of 55°34'12" N. lat., 133°24'39" W. long.

(8) Within 2,500 feet of 55°36'28" N. lat., 133°21'30" W. long.

(12) Within 2,500 feet of 55°22'59" N. lat., 133°13'28" W. long.

(13) Within 2,500 feet of 54°41'03" N. lat., 132°41'12" W. long.

(17) Within 2,500 feet of the following: (i) 54°56'33" N. lat., 132°34'37" W. long., (ii) 54°56'00" N. lat., 132°33'11" W. long.

(20) Within 2,500 feet of the following: (i) 55°41'38" N. lat., 133°32'05" W. long., (ii) 55°42'32" N. lat., 133°35'28" W. long.

(h) *Southern district.*

NOTE: Effective only through December 31, 1958, § 115.27 (h) is amended by deleting subparagraphs (1) (i), (4), (5), and (11); and by revising subparagraphs (2), (3) (ii), (6) (ii) and (iii), and (10).

(2) Within 2,500 feet of the following: (i) 55°11'28" N. lat., 131°11'01" W. long., (ii) 55°11'31" N. lat., 131°12'44" W. long., (iii) 55°12'00" N. lat., 131°14'22" W. long., (iv) 55°13'34" N. lat., 131°17'19" W. long., and (v) 55°14'45" N. lat., 131°19'32" W. long.

(3) Along the coast * * * (ii) within 2,500 feet of 55°06'59" N. lat., 131°02'43" W. long.

(6) Along the coast * * * (ii) within 2,500 feet of the following: 54°52'43" N. lat., 130°57'19" W. long. (iii) 54°48'26" N. lat., 130°56'00" W. long.

(10) Within 2,500 feet of 54°44'16" N. lat., 130°42'57" W. long.

§ 115.34 *Closed waters.* Except after September 1 where fall seasons have been provided in § 115.8.

NOTE: Paragraph (a) *Icy Strait district* is amended by adding subparagraphs (4), (5), and (6).

(4) Port Althorp: Within 3 nautical miles of the head.

(5) Mud Bay: South of the latitude of Quartz Point.

(6) Spasski Bay: All waters.

NOTE: Paragraph (b) *Western district* is amended in subparagraphs (8), (9), (19), and (21), and by adding subparagraphs (22) through (32).

(8) Rodman Bay: All waters.

(9) Sitkoh Bay: The northwest arm.

(19) Hood Bay: All waters of the north and south arms.

(21) Freshwater Bay: Inside the innermost island.

(22) Lisianski Inlet: South of Pelican City, except for trolling.

(23) Stag Bay: All waters, except for trolling.

(24) Goulding Harbor: All waters.

(25) Black Bay: All waters.

(26) Waterfall, Slocum Arm: All waters.

(27) Katlian Bay: All waters except for trolling.

(28) Nakwasina Passage: From Allan Point to a line 2 miles east of Neva Point.

(29) Sister Lake: Inside a line at the western end of the narrows between Anna and Sister Lakes.

(30) Hoonah Sound: Inside White Cliff Point on Moser Island including Fleck Cove and Patterson Bay.

(31) Saook Bay: All waters.

(32) Ushk Bay: West of Ushk Point.

NOTE: Paragraph (c) *Eastern district* is amended in subparagraphs (1), (3), (7), (8), and (15), and by adding subparagraphs (17) through (23).

(1) Port Houghton: East of Walter Island.

(3) Gambier Bay: West of 134° W. long.

(7) Hamilton Bay: Inside Point Hamilton.

(8) Keku Strait: Between a line from Point Camden to the western entrance of, and including Big John Bay, to the southern boundary of the district.

(15) Port Walter: All waters including Little Port Walter.

(17) Seymour Canal: North of the southern point at the entrance to Windfall Harbor, including Windfall Harbor.

(18) Mole Harbor: Inside Beacon Rock.

(19) Pleasant Bay: All waters.

(20) Pybus Bay: The west arm, including Cannery Cove.

(21) Hobart Bay: Inside a line at the narrows 1 mile east of Entrance Island.

(22) Murder Cove: North of the light.

(23) Slocum Inlet: All waters.

NOTE: Paragraph (e) *Sumner Strait district* is amended in subparagraphs (7), (8), (10), (11), (13), and (14), and by adding subparagraphs (23), (24) and (25).

- (7) Kah Sheets Bay: All waters.
 (8) Totem Bay: All waters.
 (10) Keku Strait: Between a line from the flasher light southeast, and the northern boundary of the district.
 (11) Three Mile Arm: West and north of the western point at the entrance to Jackson hole.
 (13) Port Beauclerc: Inside the outer Point of Edwards Island.
 (14) Affleck Canal: Kell Bay and north of the southern point at the entrance to Bear Harbor.
 (23) Steamer Bay: All waters.
 (24) Vixen Inlet: Inside Sunshine Island.
 (25) Santa Anna Inlet: Inside Point Santa Anna.

NOTE: Paragraph (f) *Clarence Strait district* is amended in subparagraphs (1), (3), (5), (6), (11), and (16), and by adding subparagraphs (19) through (25).

- (1) Moira Sound: (i) The north arm inside a line from Crowell Point to Point Holliday; (ii) Johnson Cove and (iii) west arm west of 132°12' W. long.
 (3) Cholmondeley Sound: West of and including Sunny Cove prior to September 1.
 (5) Twelvemile Arm: South of Loy Island.
 (6) Karta Bay: Inside the outermost buoys.
 (11) Whale Pass: From the north end of Thorne Arm to 56°04' N. lat.

- (16) Traitor's Cove: east of the narrows entering the lagoon.
 (19) Mossman Inlet: all waters.
 (20) North Behm Canal: north of the latitude of Snail Point.
 (21) Lake Bay: all waters of the passage behind Stevenson Island.
 (22) Kitkun Bay: all waters.
 (23) Tamgas Harbor: north of Deer Island.
 (24) Neets Bay: east of Clam Island.
 (25) Port Stewart: all waters.

NOTE: Paragraph (g) *West Coast district* is amended in subparagraphs (3), (7), (11), and (14), and by adding subparagraphs (15) through (23).

- (3) Trocadero Bay: East of 133°01' W. long.
 (7) Hetta Inlet: North of Simmons Point.
 (11) Hunter Bay: All waters.
 (14) El Capitan and Tuxekan passages: East of 133°20' W. long.
 (15) Tokeen Bay: All waters.
 (16) Edna Bay: All waters.
 (17) Keete Inlet: All waters.
 (18) Klakas Inlet: North of 55° N. lat.
 (19) Soda Bay: East of 133° W. long.
 (20) Port Saint Nicholas: East of 133°04' W. long.
 (21) Warm Chuck Inlet: North of 55°44'30" N. lat.
 (22) Nutkwa Inlet: North of 55°06' N. lat.

- (23) Shinaku Inlet: North of the latitude of Point Ildefonso.

NOTE: Paragraph (h) *Southern district* is amended in subparagraphs (1), (3), (6), (7), (8), and (9), and by adding subparagraphs (12) through (19).

- (1) Hidden Inlet: All waters.
 (3) Willard Inlet: North of the northern end of Just Island.
 (6) Boca De Quadra: Marten Arm, Mink Arm, Vixen Bay, Badger Bay, Weasel Cove, and within 5 miles of the head.
 (7) George Inlet: North of the latitude of the Light Plant.
 (8) Smeaton Bay: Wilson and Bake-well Arms.
 (9) Rudyard Bay: North and South Arms.
 (12) Carroll Inlet: North of the latitude of Island Point.
 (13) Thorne Arm: North of Eve Point.
 (14) Nakat Inlet: North of 54°50' N. lat.
 (15) Harry Bay: North of Slim Island.
 (16) Lucky Cove: Within 1,000 yards of the head.
 (17) Ward Cove: All waters.
 (18) South Behm Canal: North of a line from Point Eva to Cactus Point.
 (19) Tombstone Bay: Within 1,000 yards of the northwest stream.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

[F. R. Doc. 48-2864; Filed, Apr. 16, 1958; 8:54 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 928]

[Docket No. AO-227-A8]

MILK IN NEOSHO VALLEY MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Pittsburg, Kansas, on November 13, 1957, pursuant to notice thereof issued on November 6, 1957 (22 F. R. 9004).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 7, 1958 (23 F. R. 1700) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Defining a cooperative association as a handler with respect to the bulk tank milk of producer members;

2. Revising the base rating provisions;
3. Limiting the period during which producer milk may be diverted to non-pool plants;

4. Modifying the allocation of milk received at a pool plant from plants regulated under other Federal orders; and
5. Reducing the Class I price, and reviewing the provisions relating to payments on milk which is distributed in the marketing area from plants subject to other Federal orders.

Proposals to reduce the marketing area and to reduce the maximum rate of marketing service deductions were included in the notice of hearing, but no evidence was introduced with respect to either proposal so no further consideration will be given them.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. **Bulk tank milk.** One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

A bargaining cooperative association operates insulated tank trucks in which the milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Since late 1955 there has been a steady expansion in the

number of bulk cooling tanks being installed on the farms. It is extremely likely that the trend in this direction will continue. (Members of an operating cooperative may also use bulk tanks. However, such a cooperative is already a handler on member milk delivered to its pool plant, regardless of whether it is in cans or in bulk.)

The transportation of milk from farm to market in insulated tank trucks owned or operated by or under contract to a cooperative association has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is fixed with the responsibility for paying the individual producer for the pounds of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned, operated, or controlled by the cooperative association, the weight of each producer's milk is checked by, and a sample of the milk for butterfat testing is taken by, a person who is an

employee of or directly responsible to the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Under these circumstances, it is preferable to make the cooperative association responsible for the payment to a producer for a given quantity of milk at a particular test since the handler has no direct means of verifying such weights and test. Then, any cooperative association which qualifies as such under the order should be made the handler for such milk and should be required to account to the pool for it. The cooperative association should also be required to charge at least the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it.

With respect to milk received from producers' farms in cans or in tank trucks owned, operated, or controlled by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

2. Base-rating revision. The base-setting period should be August through November, and the base-using period February through July, as provided in the presently effective order. The only changes in base-rating provisions should be the computation of bases from appropriate delivery records for any producers serving plants which first qualify as pool plants during any month other than August, the first month of the base-setting period, and specific accommodation to every-other-day delivery by bulk-tank producers.

The base rating provisions of the order are designed to level the natural seasonality of milk production. Both the monthly data on production per farm and on the percentage of producer milk classified in Class I reflect substantial change in seasonality since the inception of the order.

In the fall of 1952, October was the month when the daily average production per producer was lowest. November, August, and September were the second, third, and fourth lowest. In 1953, September was the low month and in every succeeding year it has been August, the month which immediately precedes the base-setting period of September through December. By 1956 daily average production per producer during the four base-setting months was almost as high (average 435 pounds) as during the four normally flush months of March through June (average 439 pounds). In both July and August production was much

lower than during the base-setting months.

Following a hearing held on May 15, 1956, and reopened on February 25, 1957, the order was amended to advance the base-setting period by one month, to August through November, and the base-operating period to February through July. These changes were not scheduled to become effective until the fall of 1958, in order to allow ample opportunity for producers to plan appropriate changes in their production programs. Experience during the fall of 1957, when August was again the month of lowest production, confirms the previous conclusion that the base-making and base-operating periods should be advanced.

Producers proposed that July and August be added as base-setting months without deleting any of the present months. However, the present plan already exercises a direct effect on production in 10 months of the year. The 4-month base-setting and 6-month base-operating periods have had substantial effects on the seasonality of production. In recent years, production during November and December has been more than adequate.

The recommended decision provided for advancing the base-setting period to July through October and the base-operating period to January through June. However, in the exceptions filed by both of the cooperative associations of producers it was maintained that producers would not have had sufficient notice to respond to a base-setting period starting in July 1958, and that a period of July through October would be likely to create flush and shortage problems in months when production is now well adjusted.

In the circumstances, it is concluded that the base-setting and base-operating periods should remain as presently specified in the order. There has been ample time for producers to adjust their production plans, an incentive to increase production during August is long overdue, and any further adjustments which may appear desirable after actual experience with a base-setting period of August through November can be considered at subsequent amendment proceedings.

It was proposed by handlers that new producers, those who had not established bases during the base-setting months, be allowed to establish discounted bases on current production, for use during the base-operating months. If such a provision were adopted, its application to old producers who might wish to set new bases should also be considered. Such modifications would inevitably reduce the effectiveness of the base plan in adjusting the seasonality production. Also, one of the factors in the handlers' proposal was the producers' request for a longer base-setting period. It is concluded that the proposal to provide bases for new shippers should not be adopted.

There is a possible circumstance in which new bases should be provided. A plant may be qualified as a pool plant during any month of the year. If a newly constructed plant or one not previously associated with the Neosho Val-

ley market should so qualify after the start of the base-setting period, the producers supplying milk should have bases computed under the same rules as apply to other producers. The market administrator could compute such bases from any verifiable records available at the plant or supplied by the producers.

Bulk tank milk is picked up on an every-other day schedule in this market. The base-setting provisions should be clarified as applying to days of production rather than delivery days.

3. Diversion to unapproved plants. Under the present order either the operator of an approved plant or a qualified cooperative association may divert milk from the farm to an unapproved plant without limit. A handler proposed that such diversions be limited to 16 days per month during the base-setting months.

There was no specific evidence that the present provisions have been faulty. Potentially, an association or a handler could use the diversion privilege to carry larger supplies than could be accommodated in the approved plants or needed for Class I purposes. Such a situation would have a more directly adverse effect on producers, through reduction of the blend price, than on the handlers, who are subject only to classified prices on their own supply of milk. Furthermore, a plant-operating handler has the alternative of receiving the milk at his plant and transferring it to an unapproved plant. The proposed limitation on diversion privileges was opposed by the bargaining association of producers.

Diversion is the only means available to a bargaining association for keeping member milk pooled during periods when it is not received at handlers' plants. The adoption of 5- and 6-day per week operations at bottling plants has increased the volume of necessary reserve milk and the hauling efficiencies possible through diversion have likewise increased. The comparatively small volumes of milk handled at each plant and the distances between plants make it less possible to shift supplies between handlers and more necessary to use diversion than in larger, more centralized markets.

It is concluded that diversions to unapproved plants should not be limited in the manner proposed.

4. Allocation of milk from plants subject to other Federal orders. Supplemental milk brought into a Neosho Valley pool plant from a plant subject to another order should continue to be allocated to the lowest available class of utilization.

Handlers proposed that bulk milk from other Federally regulated markets be prorated to Class I and Class II under the Neosho Valley order in the same proportion as producer milk. It is apparent, however, that this proposal could lead to serious disruption of the pool. Any handler operating plants in the Neosho Valley and another order market could shift supplies in such fashion as to arbitrarily influence the blend prices in the two markets. Furthermore, the proposal would permit each operator of a Neosho Valley pool

plant to substitute milk from plants under other orders for local producer milk, even though local supplies might be more than adequate.

The classification and pricing of the supplemental bulk milk under the originating order would usually depend on its classification under the Neosho Valley order where its final utilization is determined. Only if the other order area were so distant that the Neosho Valley area was beyond the surplus disposal area, would the originating supply be Class I.

So long as the various Federal order markets maintain their separate identities and separate pooling arrangements, it is highly desirable that the producers who regularly supply milk to any given market have a prior claim on that market's Class I utilization. Under the circumstances which have prevailed in the market, the local producers have provided an adequate supply for Class I purposes at all seasons of the year and have borne the burden of the daily and seasonal reserves.

The present order does not specify the order of allocation in the event other source milk is received at a Neosho Valley plant both from other order and totally unregulated sources. In such event, the unregulated milk should be allocated first to the lowest classification, thereby giving Class I preference to the milk from the other order area and minimizing compensatory payments on the unregulated milk.

Milk received in consumer packages from other Federal order markets is in a somewhat different category than supplemental supplies of bulk milk since the packaging is such clear evidence of intent of Class I sale. Handlers proposed that milk in consumer packages purchased from other Federal order markets by a Neosho Valley handler and sold in the same package as received be allocated to Class I use in the Neosho Valley plant instead of being allocated to the lowest class of use.

There were no current instances of the purchase of packaged Class I items from other markets by Neosho Valley handlers. Moreover, no future likelihood of such purchases was cited by the proponents. Furthermore, it is apparent from the data of record that the supply of producer milk is adequate to cover all Class I requirements of the regulated handlers.

It is concluded that under present conditions there is no need for giving Class I priority to supplies from other markets.

5. *Class I price.* No change should be made in either the Class I price provisions of the order or the provisions relating to payments on milk received from other federally regulated markets.

Handlers proposed that the Class I price be reduced to the level of the Ozarks price plus 15 cents if the provisions relating to payments on milk from other Federal markets were deleted. There was no testimony at the hearing with regard to changing the payments on other Federal milk.

The fundamental Class I price problem in the Neosho Valley area is to establish an appropriate alignment of the class prices with those prevailing under the Ozarks and Oklahoma Metropolitan

orders. (The Tulsa-Muskogee order was merged with the Oklahoma City order effective May 1, 1957. The Tulsa portion of the Oklahoma Metropolitan market is the most directly competitive portion of the combined marketing areas.) Neosho Valley handlers compete for producer supplies with handlers regulated under both the Ozarks and Oklahoma orders. Also, some Ozarks handlers distribute milk regularly on routes in the Neosho Valley area. In addition, some Neosho Valley handlers compete with Tulsa handlers in territory between the two marketing areas. The Class I price differential over basic formula prices in the Ozarks market averages 91 cents, while the Oklahoma differential averages \$1.85 (10 cents lower at Tulsa). The seasonal variation in these two markets is different and each is subject to a supply-demand adjustment. The Neosho Valley order provides an intermediate Class I differential, averaging \$1.34, and an additional proviso that the Neosho price shall not exceed the higher or be below the lower of the Ozarks price plus 15 cents, or the Oklahoma price less 33 cents. This proviso became effective February 1, 1955. Usually the Ozarks price plus 15 cents, constitutes the minimum and the Oklahoma price less 33 cents, the maximum, although there have been three months within the past three years when the Ozarks price exceeded the Oklahoma price.

Joplin, Missouri, located in the southeastern portion of the Neosho Valley area, is the metropolitan area closest to Springfield, Missouri, the center of the Ozarks area. It is subject to the greatest competition with the Ozarks handlers. Consideration was given to the possibility of providing location adjustments within the Neosho area such that Class I prices at Joplin and other southeastern locations would be lower and the prices elsewhere in the market, particularly in the portions nearest to Tulsa, higher. However, the major handler in Joplin had lost a considerable number of shippers to Tulsa handlers and was purchasing substantial supplies of supplemental milk from Erie, Kansas. Obviously, while lower Class I prices in the Joplin territory might afford some sales advantage, there would also be procurement disadvantages. It was also developed that the distributor who competes most directly for sales with the Oklahoma handlers distributes throughout most of the Neosho Valley area. Any system of location adjustments within the market which provides a higher price at his plant would leave him at a competitive disadvantage on much of his in-area sales.

An amendment to the Neosho Valley order effective July 1, 1957, provided for location adjustments at plants located more than 50 miles from four named points. These location adjustments were made applicable to the computation of payments on milk received from other Federal order markets. At Springfield, Missouri, the principal point involved, the adjustment would amount to 12 cents per hundredweight. There was no testimony at the hearing either by Neosho Valley or Ozarks handlers regarding the

rate of location adjustment. To that extent, therefore, it appears that they appropriately reflect transportation costs. Moreover, as previously indicated, none of the Ozarks handlers who had proposed modifying the Neosho Valley provisions regarding milk from other Federal order markets submitted proposals or testified at this hearing. Accordingly, it does not appear that there is any basis for changing the price provisions at this time.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Neosho Valley Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Neosho Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of February 1958, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Neosho Valley marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 14th day of April 1958.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

Order¹ Amending Order Regulating Handling of Milk in Neosho Valley Marketing Area

§ 928.0 Findings and determinations. The findings and determinations herein-after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Neosho Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions

thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Neosho Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Revise § 928.8 (d) to read as follows:

(d) Any cooperative association, with respect to milk of producers (1) which it causes to be diverted to an unapproved plant for the account of such association; (2) delivered for its account to the approved plant of another cooperative association; and (3) for which it elects to report as a handler and which is delivered to the pool plant(s) of another handler in a tank truck owned, operated, or controlled by, such association (such milk shall be considered as having been received by the cooperative association at the plant to which it is delivered).

2. In § 928.11 change the phrase "or another handler in his capacity as the operator of a pool plant" to read "or another handler either in his capacity as the operator of an approved plant or as a cooperative association acting pursuant to § 928.8 (d)."

3. In § 928.30 (a) (1), delete the word "and" from subdivision (ii), change the period at the end of subdivision (iii) to a comma, and add the word "and", and add a subdivision (iv), as follows:

(iv) Milk received from a cooperative association pursuant to subparagraphs (2) and (3) of § 928.8 (d).

4. Delete § 928.46 (a) (3) and substitute therefor the following subparagraphs (3) and (4):

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk received in other source milk other than that to be subtracted pursuant to subparagraph (4) of this paragraph;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk from a plant at which the handling of milk is

fully subject to the pricing and payment provisions of another marketing order issued pursuant to the act;

5. Renumber subparagraphs (4) and (5) of § 928.46 (a) as "(5)" and "(6)", respectively.

6. In § 928.70 change the citation "pursuant to § 928.46 (a) (5) or (b)" to read "pursuant to § 928.46 (a) (6) or (b)".

7. In § 928.71 delete the phrases "For each delivery period of September 1957 through February 1958 and for each delivery period of August through January thereafter" and substitute therefor the phrase "For each delivery period of August through January".

8. In §§ 928.72, 928.80, 928.81, 928.93, and 928.94 delete the phrases "the delivery periods of March 1958 through August 1958 and each of the delivery periods of February through July of each year thereafter," and substitute therefor the phrase "the delivery periods of February through July".

9. In § 928.80 delete the phrase "during the preceding delivery periods of September 1957 through December 1957 and preceding delivery periods of August through November of each year thereafter" and substitute therefor the phrase "during the preceding delivery periods of August through November".

10. In § 928.80 change the period to a colon and add the following: "Provided, That with respect to any producer on 'every-other-day' delivery the days of non-delivery shall be considered as days of delivery for purposes of this section and of § 928.81: And provided further, That in the case of producers delivering milk to an approved plant which first qualifies as such during any month other than August, a daily average base for each such producer shall be calculated pursuant to this section on the basis of his verifiable deliveries of milk to such plant during the period August through November immediately preceding."

11. In § 928.83 change "February 15" to "January 15."

12. Add a paragraph (c) to § 928.90, as follows:

(c) On or before the 17th day after the end of each delivery period, to each cooperative association, with respect to receipts of milk for which such cooperative association is defined as a handler pursuant to § 928.8 (d), not less than the value of such milk as is classified pursuant to § 928.44 (a) at the applicable class prices.

[F. R. Doc. 58-2852; Filed, Apr. 16, 1958; 8:52 a. m.]

[7 CFR Parts 1002, 1009]

[Docket No. AO-268-A4]

MILK IN GREATER WHEELING, WEST VA. AND CLARKSBURG, WEST VA., MARKETING AREAS

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENTS AND TO ORDERS

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.),

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Wheeling, West Virginia, on February 14, 1958, pursuant to notice thereof issued on February 5, 1958 (23 F. R. 854).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 28, 1958 (23 F. R. 2196), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issue on the record of hearing relates to the supply-demand provisions of the Greater Wheeling and Clarksburg orders.

Findings and conclusions. The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

There should be deleted the provisions whereby the Class I prices in these orders are adjusted by the supply-demand adjustment effective in the Cleveland order during the preceding month. The prices for Class I milk in each of the orders should be subject to adjustments based on the relationship of the supply of producer milk in the market to the volume of Class I milk at pool plants, excepting those pool plants which do not depend primarily on producer milk.

Under the Greater Wheeling and Clarksburg orders, the Class I prices are adjusted each month by the amount of Cleveland order supply-demand adjustment for the previous month. The lag of one month is due to the earlier announcement of prices in these markets than in the Cleveland market. The Cleveland supply-demand adjustment is based on the combined utilization of milk in the Cleveland and Akron-Stark County markets.

Dairymen's Co-Operative Sales Association, which represents producers in the Wheeling and Clarksburg markets, stated that the Cleveland supply-demand adjustment did not reflect marketing conditions in the West Virginia Federal order markets. They proposed that the Wheeling and Clarksburg Class I prices be adjusted each month according to the deviation from a "standard utilization percentage" of the ratio of combined producer receipts to Class I sales in the two markets. According to their proposal, a schedule of standard utilization percentages would be constructed based upon the relationship in 1956 and 1957 of producer receipts to Class I sales combined for both markets. Class I prices in both markets would be adjusted each month by an amount depending on the difference of the combined utilization in the two markets from the standard utilization percentages. This method of price adjustment would maintain the 25-cent differential between the markets.

Producers also requested immediate suspension of the provisions tying the

Class I prices in these West Virginia markets to the supply-demand adjustment effective in Cleveland.

In orders suspending certain provisions of the Greater Wheeling and Clarksburg orders, issued February 25, 1958, the Acting Secretary found that the Cleveland supply-demand adjustment is not reflecting current conditions in these marketing areas. The provisos which adjust the Class I prices in these markets by the Cleveland supply-demand adjustment were suspended for March and April 1958.

Some handlers in the Wheeling market stated that Class I prices in Wheeling, at least, should not be adjusted pursuant to Cleveland's supply-demand adjustment. They proposed the adoption of a supply-demand adjustment with a standard utilization schedule based upon the relationship in each month of 1957 of producer receipts to Class I sales.

There is considerable difference in the levels of utilization in the Wheeling and Clarksburg markets and the Cleveland and Akron-Stark County markets. The average of the ratios of producer receipts to Class I sales used in the computation of the Cleveland supply-demand adjustment for the price months of February through December 1957 was about 131 percent, while the average of similar ratios for Wheeling and Clarksburg in plants receiving producer milk was about 118 percent. Production for the Cleveland and Akron-Stark County markets has been such as to reduce the Wheeling and Clarksburg Class I prices by 7 cents in December 1957, and 13 and 19 cents, respectively, in January and February 1958. The Cleveland supply-demand ratios for these months were 127, 130 and 133 percent, respectively. The supply-demand ratios in plants receiving producer milk computed for the same months for Wheeling and Clarksburg combined were 113, 115 and 116 percent, respectively. While the facts in the record show a need for maintaining a relationship with Cleveland and Akron-Stark County prices, it is also evident that prices in these markets could give better recognition to local supply-demand conditions.

The Wheeling and Clarksburg orders have now been in effect over two years, and the record gives a basis for constructing a schedule of standard supply based on the seasonal relationship of receipts and sales. However, use of such standard supply schedule as a basis for adjusting prices should give recognition to the necessity that Class I prices in Wheeling and Clarksburg must be aligned with prices in Cleveland and Akron-Stark County. During 1957, over 11 million pounds of Class I milk from Cleveland and Akron-Stark County plants were distributed in the Wheeling market, and over 6 million pounds of Wheeling Class I milk were distributed in Clarksburg.

A principal difference between the schedule of standard supply as proposed by producers and by handlers is that producers proposed higher normal percentages in the flush months than did

handlers. The annual average of producers' proposed normals of about 119 percent is approximately 2 percent higher than the annual average of handlers' proposed normals.

The producer proposal would use a standard utilization schedule based on averaging the receipts and sales ratios in the same calendar months of 1956 and 1957. Production differed considerably in like months of these two years, partly because of favorable pasture in one year and drought conditions in the other. Because of the abnormal weather conditions affecting some of these periods, such an averaging of like months in the two years is likely to be misleading in developing an estimate of normal seasonal changes in production. The same difficulty could be expected in using utilization percentages experienced only in the year 1957, as proposed by handlers.

The standard utilization schedule developed herein is based on a reasonable level of supply in short production months with seasonal changes for other months. Producer and handler representatives testified that in the shortest production months a supply of producer milk equal to 110 percent of Class I disposition would be adequate to cover Class I sales and the necessary reserve. This figure is adopted herein as the minimum standard utilization percentage in the shortest month. The standard percentages to be used in other months should vary seasonally in recognition of the natural tendency for milk production to increase in spring months and decrease in late summer and fall. The seasonal pattern would tend to eliminate the effect of abnormalities of weather shown in the utilization figures for the last two years.

The standard utilization percentages for each month should provide a range of three points within which no price adjustments occur. This will recognize short-time variations in production and sales, and will guard against fluctuating plus and minus price adjustments unless there is a significant change in the relation of supplies to Class I needs.

The price adjustment for each month should be based upon the utilization figures for the first and second preceding months. Two months will give a more reliable indication of market conditions than a single month. The use of the first and second rather than the second and third preceding months in the computation of the supply-demand adjustment will provide a more timely indication of current marketing conditions.

Use of the first and second preceding months will require that the market administrator announce the Class I price somewhat later than currently indicated in the orders. Announcement of the Class I price on the 11th day of the month will allow adequate time for the market administrator to make the required computations.

The following table contains the standard utilization percentages for each two-month period and the corresponding month in which the price would be affected:

Month for which price applies	Months for which average utilization is computed	Standard utilization percentages	
		Minimum	Maximum
January	November-December	113	116
February	December-January	115	118
March	January-February	115	118
April	February-March	115	118
May	March-April	118	121
June	April-May	130	133
July	May-June	137	140
August	June-July	127	130
September	July-August	113	116
October	August-September	110	113
November	September-October	110	113
December	October-November	113	116

Only receipts and Class I sales at regulated plants which depend primarily on milk from producers for their Class I needs should be included in the computation of standard utilization percentages. One handler regulated under the terms of the Wheeling order receives no milk from producers, but receives his entire supply from a plant regulated under another Federal order. It was suggested at the hearing that sales of such a plant be added into total sales of Wheeling handlers and that an equal volume be added into receipts for the purpose of computing a supply-demand ratio. This procedure would not give a true representation of supply-demand relations since it would not include the necessary reserve supply associated with the sales of such a plant, which is, in fact, being carried in the other Federal order market.

For purposes of price adjustments in these markets, a better representation of the supply of and demand for producer milk would be arrived at by taking the utilization of milk in those pool plants which obtain half or more of their supply from sources not regulated by another Federal order.

Provisions of the orders for these markets maintain the Clarksburg Class I price 25 cents per hundredweight over the Wheeling Class I price. During the past two years there have been, from time to time, considerable differences in the utilization in these two markets.

During 1956, Clarksburg producer receipts were approximately 113 percent of Class I sales, while in Wheeling, producer receipts were about 122 percent of Class I sales of plants receiving producer milk. For 1957, the average utilization percentage of the two markets was very close. During the months of November 1955 through June 1957, the ratios of producer receipts to Class I sales in the Wheeling market generally exceeded the similar ratios computed for the Clarksburg market. In each of the last seven months through January 1958, the ratio of producer receipts to Class I sales in the Clarksburg market has been higher than the ratio computed for the Wheeling market. The average of such ratios for Clarksburg was about 122 percent and the average for Wheeling was about 117 percent.

The average daily rate of production per Clarksburg producer in December 1957 was about 16 percent higher than in the same month a year ago. There were also 42, or 8 percent, more producers on the Clarksburg market in December

1957 than in December 1956. In the Wheeling market in December 1957, the average daily rate of production per farm was up about 8 percent, and 3 percent fewer producers shipped to the market as compared with December 1956.

It is therefore appropriate that these markets have separate supply-demand adjustments based on their individual utilizations.

The price adjustments in Wheeling should be limited by the relation to Cleveland in view of the inter-relationship of supplies, and similarly, the price adjustments in Clarksburg should be limited by the relationship to Wheeling. Variation of the Clarksburg Class I price from the Wheeling order price should be restricted to an upper limit of the Wheeling Class I price plus 30 cents and a lower limit of the Wheeling Class I price plus 15 cents.

Producers proposed that the Wheeling Class I price be confined at its lowest limit to the Akron-Stark County Class I price and at the highest limit to the Akron-Stark County Class I price plus 30 cents. Wheeling's Class I differential is 15 cents higher than that effective in Akron-Stark County. Since the Akron-Stark County and Cleveland Class I prices for a particular month are announced approximately a month later than are Wheeling Class I prices, and there are seasonal price changes in all of the markets, limitation of the Wheeling Class I price for a specific calendar month based on the Akron-Stark County Class I price of the same month is not practical. However, a price relationship may be maintained by providing that the supply-demand adjustment in the Wheeling order for the current month cannot differ from the adjustment in the Cleveland order for the preceding month by more than plus or minus 15 cents. Such a method of limiting the Wheeling Class I adjustment and maintaining a relationship with the Cleveland and Akron-Stark County Class I prices is adopted.

A rate of price adjustment of 2 cents per point of variation of the actual utilization percentage from the standard percentage would be used in each order.

The supply-demand provisions in effect in the Wheeling and Clarksburg orders during the 10-month period of March through December 1957 resulted in an average plus adjustment of 3.4 cents. If the supply-demand adjustments herein contained had been in effect during this same 10-month period, the utilization percentages in the two markets would have resulted in an average plus adjustment of 2 cents in Wheeling and a plus adjustment of 1.3 cents in Clarksburg. In January and February 1958, the actual adjustments in the two markets were minus 13 cents and minus 19 cents, respectively. For the same two months, the adjustments pursuant to the decision herein contained would have been zero and minus 4 cents, respectively, in Wheeling; and minus 10 cents in both months in Clarksburg.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the markets.

These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

One of the parties present at the hearing requested a continuance of the hearing in order to present additional testimony with respect to the proposal to revise the supply-demand formula. The motions for continuance were overruled by the presiding officer at the hearing, whereupon such request was renewed in a brief following the close of the hearing. The views expressed at the hearing and in the brief were carefully reviewed in the light of the evidence presented at the hearing. The rulings of the presiding officer are affirmed for the reasons stated by him in connection with his rulings.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such excep-

tions are hereby overruled for the reasons previously stated in this decision.

Marketing agreements and orders. Annexed hereto and made a part hereof are four documents entitled, respectively, "Marketing Agreement regulating the handling of milk in the Greater Wheeling, West Virginia, marketing area", "Order amending the order regulating the handling of milk in the Greater Wheeling, West Virginia, marketing area", "Marketing Agreement regulating the handling of milk in the Clarksburg, West Virginia, marketing area", and "Order amending the order regulating the handling of milk in the Clarksburg, West Virginia, marketing area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the attached orders which will be published with this decision.

Determination of representative period. The month of February 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Greater Wheeling, West Virginia, marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Clarksburg, West Virginia, marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of February 1958 is hereby determined to be the representative period for the conduct of such referendum.

William Kidd is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 15th day from the date this decision is issued.

Issued at Washington, D. C., this 14th day of April, 1958.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

Order¹ Amending Order Regulating Handling of Milk in Greater Wheeling, West Va., Marketing Area

§ 1002.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Wheeling, West Virginia, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Greater Wheeling, West Virginia, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended, as follows:

1. Delete § 1002.27 (k) (1) and (2) and substitute therefor the following:

(1) The 5th day of each month, the Class II milk price and the Class II but-

terfat differential, both for the preceding month, and

(2) The 11th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the uniform prices, computed pursuant to §§ 1002.71 and 1002.72, and the producer butterfat differential, both for the preceding month.

2. Delete § 1002.51 (a) and substitute therefor the following:

(a) **Class I milk price.** The Class I milk price shall be the basic formula price (computed pursuant to § 1002.50) for the preceding month, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph:

(1) Add the amount for the month indicated:

Month	Amount
February, March, April, May, June, and July.....	\$1.50
All others.....	1.95

(2) Add if the utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than or subtract if it is more than, the standard utilization range, an amount determined by multiplying the net utilization percentage calculated pursuant to subparagraph (4) of this paragraph by 2 cents: *Provided*, That the result of the computation pursuant to this subparagraph shall be adjusted to an amount which does not differ by more than 15 cents from the "supply-demand adjustment" effective in the calculation of the Class I price for the preceding month under the terms of the Cleveland, Ohio, Federal milk order (Part 975 of this chapter);

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk disposed of during the first and second preceding months from pool plants at which less than 50 percent of total receipts is milk from a plant(s) fully regulated pursuant to another order issued pursuant to the act into the total hundredweight of producer milk received at such pool plants during the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

(4) Calculate a net utilization percentage by determining the amount by which the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds the higher figure or is less than the lower figure of the standard utilization range in the following table:

Month for which price applies	Months for which average utilization is computed	Standard utilization percentages	
		Minimum	Maximum
January.....	November-December.....	113	116
February.....	December-January.....	115	118
March.....	January-February.....	115	118
April.....	February-March.....	115	118
May.....	March-April.....	118	121
June.....	April-May.....	130	133
July.....	May-June.....	137	140
August.....	June-July.....	127	130
September.....	July-August.....	113	116
October.....	August-September.....	110	113
November.....	September-October.....	110	113
December.....	October-November.....	113	116

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Order¹ Amending Order Regulating Handling of Milk in Clarksburg, West Va., Marketing Area

§ 1009.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Clarksburg, West Virginia, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Clarksburg, West Virginia, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended, as follows:

1. Delete § 1009.27 (k) (1) and (2) and substitute therefor the following:

(1) The 5th day of each month, the Class II milk price and the Class II but-

terfat differential, both for the preceding month, and

(2) The 11th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the uniform prices, computed pursuant to §§ 1009.71 and 1009.72, and the producer butterfat differential, both for the preceding month.

2. Delete § 1009.51 (a) and substitute therefor the following:

(a) **Class I milk price.** The Class I milk price shall be the basic formula price (computed pursuant to § 1009.50) for the preceding month, subject to the adjustments provided in subparagraphs (1) and (2) of this paragraph: *Provided*, That the Class I price shall not be more than 30 cents in excess of, nor less than 15 cents in excess of, the Class I price effective for the same month under the terms of the Greater Wheeling Federal milk order (Part 1002 of this chapter):

(1) Add the amount for the month indicated:

Month	Amount
February, March, April, May, June, and July	\$1.75
All others	2.20

(2) Add if the utilization percentage calculated pursuant to subparagraph (3) of this paragraph is less than, or subtract if it is more than, the standard utilization range, an amount determined by multiplying the net utilization percentage calculated pursuant to subparagraph (4) of this paragraph by 2 cents;

(3) Calculate a utilization percentage for each month by dividing the net hundredweight of Class I milk disposed of during the first and second preceding months from pool plants at which less than 50 percent of total receipts is milk from a plant(s) fully regulated pursuant to another order issued pursuant to the act into the total hundredweight of producer milk received at such pool plants during the same months, multiplying by 100, and rounding the resultant figure to the nearest whole number;

(4) Calculate a net utilization percentage by determining the amount by which the utilization percentage calculated pursuant to subparagraph (3) of this paragraph exceeds the higher figure or is less than the lower figure of the standard utilization range in the following table:

Month for which price applies	Months for which average utilization is computed	Standard utilization percentages	
		Minimum	Maximum
January	November-December	113	116
February	December-January	115	118
March	January-February	115	118
April	February-March	115	118
May	March-April	118	121
June	April-May	130	133
July	May-June	137	140
August	June-July	127	130
September	July-August	113	116
October	August-September	110	113
November	September-October	110	113
December	October-November	113	116

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[7 CFR Part 1012]

[Docket No. AO-278-A1]

MILK IN BLUEFIELD MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Bluefield, West Virginia, on February 11, 1958, pursuant to notice thereof issued on January 23, 1958 (23 F. R. 538).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 28, 1958 (23 F. R. 2199), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. The price for Class I milk.
2. The milk manufacturing plants from which prices should be obtained for formula purposes.
3. Definition of "producer" with respect to diversion.
4. Classification of shrinkage.
5. Miscellaneous and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. **The price for Class I milk.** The Class I price differentials in the order should be continued for a period of 18 months.

The pricing provisions of the order were made effective November 1, 1956. For Class I milk, the differentials over the basic formula price of \$1.45 for the months of April, May and June, \$1.70 for the months of March and July, and \$2.10 for the months of August through February were made effective only for the first 18 months of order pricing. It was contemplated at the time of order issuance that the Class I price provisions would be reviewed at a public hearing before the end of such 18-month period.

A producer association which represents a large percentage of the producers for this market proposed that the Class I price differential for each of the months of April, May and June should be \$1.70, and that the differentials for the other months should be the same as now in the order. The producer association supported its proposal on the basis that supply of producer milk for the market is short, and other considerations largely related to price situations in surrounding markets. It was pointed out by the association that the proposed price change would make the Class I prices under the Bluefield order identical to the prices under the Appalachian order, and that this would remove some

difficulty experienced by the association in attempting to transfer producers from the Appalachian to the Bluefield market. The association claimed that special state sanitation requirements have made it difficult to qualify new producers. About 15 members of the association left the market during the year, it was claimed, because of higher prices paid in some nearby markets not regulated under Federal orders. The association representative argued that the proposed prices would not be out of line with the prices being paid by handlers under the Tri-State order, considering the premiums paid by such handlers.

The association manager stated that 17 producers formerly on the Appalachian market had been induced to shift to the Bluefield market in the past year, but that further shifting of producers to this market was resisted because of the lower Class I price in April, May, and June.

The same Class I price proposal was supported by another producer association which has members in both the Bluefield and Tri-State markets.

The number of producers on the Bluefield market dropped from 324 in January 1957 to 271 in January 1958. Some of this change in number of producers came about because one plant serving the market was closed. Also, the change by some handlers to receiving only milk in bulk from farms with tanks resulted in some eliminations.

The total volume of producer milk has increased even though the number of producers is less. In November and December 1957 and January 1958, the percentages of increase over the same month a year previous were 10, 8 and 10 percent, respectively. The average production per producer increased from 432 pounds in January 1957 to 522 in January 1958.

During the year 1957, the supply of producer milk exceeded Class I needs only in the months of May, June, July, and December, and during the entire year the volume of producer milk was about 96 percent of the volume of handlers' Class I sales. In recent months, the ratio of producer milk to Class I sales has been running about 5 percent higher than a year earlier. Supplemental milk from other sources was needed by handlers in most months to cover Class I sales. Some of this milk came from plants regulated under the Appalachian order.

The relationship of the Appalachian market to the Bluefield market is principally in the overlapping of supply areas and movement of milk in bulk and packaged form from Appalachian to Bluefield plants. The supply of producer milk in the Appalachian market is more ample than the supply in the Bluefield market. During the last quarter of 1957, in the Appalachian market producer milk was about 122 percent of all Class I utilization of handlers as compared to the similar figure of about 98 percent in Bluefield. If all the reserve milk in the Appalachian market had been available for the Bluefield market, both markets would have had, in most months of 1957, an adequate supply. In the shortest supply month, the excess

of Appalachian producer milk over Class I use in that market was approximately equal to the volume of other source milk used by Bluefield handlers.

Between the Tri-State and Bluefield markets there is overlapping of both supply systems and distribution systems. Tri-State plants in the Huntington district compete with Bluefield handlers in Kentucky areas, and a Tri-State plant in Athens, Ohio, distributes milk in some West Virginia and Kentucky counties in competition with Bluefield handlers. One Bluefield handler claimed that the major portion of his sales are in competition with Tri-State handlers.

Points in Pike County, Kentucky, where Bluefield and Tri-State handlers compete, are approximately 80 miles from Huntington, slightly over 100 miles from Bluefield, and about 70 miles from Welch, all in West Virginia.

During 1957, the Class I prices for 4 percent milk averaged 9 cents higher under the Bluefield order than under the Tri-State order in the Huntington district. (The standard test under the Bluefield order is 4 percent, and under the Tri-State order is 3.5 percent.) The annual average of the Class I differentials over the basic formula price is approximately \$1.87 in the Bluefield order, and about \$1.59 in the Tri-State order, Huntington district. The 28-cent difference in the average of the Class I price differentials was during 1957 to a large extent offset by the effect of the supply-demand adjustment under the Tri-State order, which added an average of 23 cents per hundredweight. Official notice is taken of public announcements by the administrator of the Tri-State order which show that for the first three months of 1958, the Tri-State supply-demand adjustment is zero.

Under the Tri-State order, the Class I prices in the Gallipolis-Scioto district and the Athens district are 10 cents and 20 cents less, respectively, in each month than the price for the Huntington district. The seasonal Class I price differentials in the Huntington district are \$1.10 per hundredweight in April, May, June, and July, \$1.55 in February, March, and August, and \$2.00 for September through January.

Although the Bluefield market has continued to be short of an adequate year around supply of producer milk, the consideration of whether the price in April, May, and June should be increased as proposed by producers is affected, in a large part, by relationships with the Appalachian and Tri-State markets. A large part of the sales of Bluefield handlers are outside the marketing area in areas served also by Tri-State handlers. The Class I price under the Tri-State order, on an average basis, has been somewhat lower than the Bluefield average price, although in the latter part of 1957 the Tri-State price was the higher. In January, February and March 1958, however, the Tri-State Huntington price, on a 4-percent butterfat basis, was 9 cents, 61 cents, and 20 cents, respectively, less than the Bluefield Class I price. In April, May, and June, the Tri-State order Huntington Class I differential is 35 cents less than the Bluefield

order differential. In view of the generally higher level of price under the Bluefield order and the fact that handlers under both orders serve a number of the same counties between the two marketing areas, an increase in price as proposed by producers would result in a misalignment of price relations between the two markets.

The relationship between the Bluefield and Appalachian markets does not require that the prices be identical in each month. Under the present pricing arrangement, reserve milk regularly moves from the Appalachian to the Bluefield market when the supply of Bluefield producer milk is not adequate. Because of this situation, handlers do not need to carry in Bluefield order plants a reserve supply of milk to cover variations in production and sales. In these circumstances, it is not necessary to raise the level of prices with the objective of obtaining a full year around supply from producers whose milk is priced under this order. It is concluded that no change should be made at this time in the Class I price differentials. In view of the variance in the price relationship between Bluefield and neighboring markets in recent periods, a longer history of market conditions and relationships is needed before a permanent system of pricing can be established. The seasonal price differentials now in the order should be extended for a period of 18 months.

2. Manufacturing plants. The list of manufacturing plants named in the order for the purposes of establishing a Class II price and also as one of the alternatives for the basic formula price should be changed by deleting the Pet Milk Company plants at Mayfield, Kentucky, and Bowling Green, Kentucky, and inserting the Kraft Foods Company plants at Independence, Virginia, and Greeneville, Tennessee.

A producer association proposed that the list of milk manufacturing plants used in arriving at the Class II milk price should be changed by deleting the Pet Milk Company plants at Bowling Green and Mayfield, Kentucky, and inserting in the list the Kraft Foods Company plants at Independence, Virginia, and Greeneville, Tennessee. The plant at Independence, Virginia, has been the association's outlet for surplus milk. Both of the plants proposed to be added to the list are considerably closer to the center of the milk production area for this market than the plants proposed to be deleted. Paying prices of these plants submitted on the record compare favorably with the average of prices paid by plants now in the list. The list now includes four Pet Milk Company plants. No Kraft Foods Company plants are in the list.

It is concluded that the deletion of the plants at Mayfield and Bowling Green and the substitution of the plants at Independence, Virginia, and Greeneville, Tennessee, would give a better representation of the price level for manufacturing milk in this area than would the present list.

A handler proposed the additional of the Carnation Company plant at Mays-

ville, Kentucky. Information was not given as to the prices paid at that plant. The handler stated that it would be a convenient plant to which he could divert some of his producers. The appropriateness of this plant's prices as a basis for order prices was not established.

The handler also made a statement on the record to the effect that the classification provisions should be modified so that milk could be diverted to the Maysville plant and classified according to use. Such a diversion would now be classified as Class I milk because the plant is more than 200 miles from Bluefield. The matter of mileage limitation on the classification of diverted milk according to use was not within the scope of proposals contained in the hearing notice, or appropriate modifications thereof.

3. Diversion of producers to nonfluid milk plants. The definition of "producer" should be changed to allow diversion of a producer's milk to a nonfluid milk plant at any time during the year.

The present definition of "producer" in the order includes those farmers whose milk the handler diverts from the producer's farm directly to a nonfluid milk plant, subject to the restriction that such diversion for a producer shall not be more than 15 days of the month during any of the months of August through March.

Handlers under the Bluefield order do not have facilities for manufacturing surplus milk. Accordingly, surplus milk is for the most part diverted to unregulated manufacturing plants. Although the present order restrictions on diversion have not caused any difficulty, largely due to the fact that supply of producer milk in most months has been very close to, or less than, the amount of Class I sales, the changes in rate of production indicated elsewhere in this decision may result in greater need for diversion in the future. It was pointed out by the proponent association that an equalization of supplies between the Appalachian and Bluefield markets would also bring about a need for more frequent use of diversion to nonfluid milk plants, and that it is more economical to divert a few producers for an entire month than to shift the diversion operation among groups of producers so as to stay within the limitation.

Under the Appalachian order, diversion may be used by a handler at any time. Under both the Bluefield and Appalachian orders, the term "handler" is limited to operators of approved plants, and accordingly diversion is not performed by any farmers' cooperative association which is not operating an approved plant. There are not now any plants in the Bluefield market operated by a cooperative association.

In view of the close relationship between the supply of milk and Class I sales, and the individual handler pooling arrangement which makes each handler responsible for the amount of reserve milk he carries, there is no need to continue the present 15-day limit on diversion, and its elimination would enhance orderly marketing. The proposal is adopted.

4. Classification of shrinkage. The classification of shrinkage should be modified.

The order now provides for proration of shrinkage between Class I and Class II milk. The amount of shrinkage to be so prorated is limited to 2 percent of the amount of butterfat and skim milk in producer milk (excepting diverted milk) and other source milk. The proration between Class I milk and Class II milk is on the basis of the volume of milk accounted for as Class I milk (excluding shrinkage) and the volume of milk accounted for as Class II milk for specific product uses, not including livestock feed, dumped skim milk or inventory. This proration includes milk diverted to nonfluid milk plants.

Milk assigned to Class II by this procedure is then further prorated between producer and other source milk.

A producer association proposed that the Class II milk volume used in the proration of shrinkage should include also the volumes accounted for as livestock feed and dumped skim milk, but not diverted milk. The association witness pointed out that the weight of diverted milk accounted for by the handler is the number of pounds weighed in by the operator of the nonfluid milk plant to which milk is diverted.

A handler proposal made at the hearing was that the classification of shrinkage of producer milk should be allowed in Class II up to 2 percent of the volume of producer milk. It was also pointed out that under the Tri-State order, a similar allowance for shrinkage classification exists, and that Bluefield order handlers and Tri-State order handlers compete in areas between the markets.

The proration of shrinkage between Class I and Class II milk in this market, which has a high percentage of producer milk used in Class I, results in shrinkage being largely a Class I cost to the handler. It is apparent that actual milk loss would occur very largely in connection with Class I milk processing. The shrinkage provisions apply uniformly to all handlers under the order and, thus, do not result in inequity between handlers. The difference from shrinkage provisions under other orders, particularly those orders under which handlers compete with Bluefield handlers, is only part of the problem of alignment of prices. As between the Bluefield and Appalachian orders, the shrinkage provisions are closely similar; as between the Tri-State and Bluefield orders, the more important factor in comparative Class I costs is the difference between the Class I price formulas.

With respect to diverted milk, since such milk is not part of the handler's plant operations, it should not be a basis for proration of plant shrinkage. Skim milk used for livestock feed or dumped should be included with other Class II usage in proration of shrinkage.

5. Miscellaneous and conforming changes. The proviso in § 1012.80, which refers to the computation of producer bases for the specific period of April through July 1957, is no longer needed and should be deleted. For the same

reason, the proviso in § 1012.82 (a) should be deleted. The computation of producer bases under § 1012.80 should be clarified by specifying that milk received from the producer during the preceding months of September of the prior year through February of the current year shall be used in the computation of the bases to be used in months of the current year.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively,

"Marketing Agreement Regulating the Handling of Milk in the Bluefield Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Bluefield Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of January 1958 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Bluefield marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 14th day of April 1958.

[SEAL]

DON PAARLBERG,
Assistant Secretary.

Order¹ Amending Order Regulating Handling of Milk in Bluefield Marketing Area

§ 1012.0 Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Bluefield marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act,

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof the handling of milk in the Bluefield marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended, as follows:

1. Delete § 1012.11 and substitute the following:

§ 1012.11 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a fluid milk plant, or (b) diverted by the operator of a fluid milk plant for his account to a nonfluid milk plant: *Provided*, That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

2. Delete § 1012.42 (c) and substitute the following:

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk which is Class II milk in the case of butterfat and skim (excluding that in milk diverted pursuant to § 1012.11 and shrinkage determined pursuant to paragraph (a) of this section) classified pursuant to § 1012.41 (a) and (b) (1), (2) and (3). The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

3. Delete § 1012.51 (a) and substitute the following:

(a) *Class I milk price.* For each month, ending with and including the month of October 1959, the Class I milk price shall be the basic formula price for the preceding month, plus \$1.45 during the months of April, May and June; plus \$1.70 during the months of March and July; and plus \$2.10 during the months of August, September, October, November, December, January, and February.

4. In § 1012.51 (b) (1), delete the list of plants and substitute the following:

Company and Location

Pet Milk Company, Greeneville, Tenn.
Pet Milk Company, Abingdon, Va.

Carnation Company, Galax, Va.
Carnation Company, Murfreesboro, Tenn.
Carnation Company, Statesville, N. C.
Borden Company, Lewisburg, Tenn.
Borden Company, Chester, S. C.
Kraft Foods Company, Independence, Va.
Kraft Foods Company, Greeneville, Tenn.

5. Delete § 1012.80 and substitute the following:

§ 1012.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months beginning with September of the preceding year and through February of the current year, by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days.

6. Delete § 1012.82 (a) and substitute the following:

(a) A base shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months beginning with September of the preceding year through February of the current year.

[F. R. Doc. 58-2853; Filed, Apr. 16, 1958; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 16]

[Docket No. 12393; FCC 58-343]

LAND TRANSPORTATION RADIO SERVICES POWER AND ANTENNA HEIGHT

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. Section 16.106 of Part 16 of the Commission's rules, Land Transportation Radio Services, now specifies the maximum plate power input to the final radio frequency stage which will be authorized the transmitting equipment of stations operating on frequencies in the 30-100 and 100-220 Mc ranges. It further states that the maximum authorized plate power input to the final radio frequency stage of any transmitter operated on a frequency above 220 Mc will be specified in the station authorization in each case.

3. The Commission has recently made frequencies in the range 450-460 Mc available in these services on a regular, rather than on a developmental, basis. Accordingly, it appears appropriate to specify in the above section the power limitation to be applied, on a uniform basis, to stations operating on frequencies in that range. Additionally, since radio signals in the range 450-460 Mc are transmitted with substantially optical properties, it appears unnecessary to permit the use of transmitting power greater than that which will provide adequate signal strength at the theoretical (4/3 earth) horizon from a reasonable antenna height. After consideration of all factors known to it, the Commission has concluded that a maximum plate input power of 60 watts to the final radio frequency stage of a transmitter operated

on a frequency in the range 220-500 Mc appears to be adequate in these services. The amendment to § 16.106 proposed herewith is based on that conclusion.

4. Accordingly, the Commission proposes to amend the table appearing in § 16.106 (b) of its rules, to read as follows:

Frequency:	Maximum plate power input to the final radio stage (watts)
30-100 Mc.....	500
100-220 Mc.....	120
220-500 Mc.....	60
Above 500 Mc.....	(*)

* To be specified in the station authorization.

5. Authority for the amendment herein proposed is contained in sections 4 (i) and 303 of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal may file with the Commission on or before July 1, 1958, a written state-

ment or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments prior to taking final action in this matter, and if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

7. In accordance with the provisions of § 1.54 of the Commission's rules an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: April 9, 1958.

Released: April 11, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2841; Filed, Apr. 16, 1958;
8:50 a. m.]

(58 Stat. 747; 43 U. S. C. 279-284 as amended), presented prior to 10:00 a. m. on May 21, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on August 20, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on August 20, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

Persons claiming veteran's preference rights under Paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based on valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P. O. Box 929, Cheyenne, Wyoming.

EUGENE L. SCHMIDT,
Lands and Minerals Officer.

[F. R. Doc. 58-2821; Filed, Apr. 16, 1958;
8:45 a. m.]

[Offer No. 18, B-26248]

COLORADO

SMALL TRACT OFFER

1. Pursuant to authority delegated to me by the Colorado State Supervisor of the Bureau of Land Management, effective February 19, 1958 (23 F. R. 1098), I hereby offer the following described public lands for public sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 91 W.,

Sec. 36, lots 11, 12, 16, 17, 18, 19, 23, 25, 27, 28, and 29, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

containing 161.60 acres subdivided into 38 small tracts.

2. The lands are located approximately three miles east of Buford, Colorado, with access from State Highway 132. The topography is moderately to steeply sloping but areas suitable for building sites are numerous. The vegetation consists of conifers, aspen, mountain browse, and associated shrubs, grasses and weeds. The North Fork of the White River flows southwesterly across the northwest quar-

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming-059331]

WYOMING

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

APRIL 10, 1958.

In accordance with authority delegated to me by the Wyoming State Supervisor, Bureau of Land Management, under Part II of Order of Delegation filed November 21, 1956 (21 F. R. 9147), it is ordered as follows:

The order dated December 7, 1926, establishing Stock Driveway Withdrawal No. 181, Wyoming No. 30, pursuant to the provisions of section 10 of the act of Congress approved December 29, 1916 (39 Stat. 862), is revoked only insofar as it pertains to the following described lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 32 N., R. 107 W.,

Sec. 19, Lots 3, 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, Lots 2, 3, and 4.

The areas described total 328.85 acres of public lands.

These lands are located in Eastern Sublette County, southeast of Boulder, Wyoming. The topography gently slopes northwest towards the main channel of the East Fork River. Vegetative cover is mainly sagebrush with an understory of native grasses and the lands are accessible from an existing county road. Elevation at Pinedale, Wyoming, north of these lands is 7,175 feet. Portions of the lands may be susceptible to cultivation under irrigation.

No. 76—8

No application for these lands will be allowed under the homestead, desert land, small tract, or any other non-mineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not become subject to occupancy or disposition until they have been classified.

Subject to any existing valid rights and the requirements of applicable law, the lands described above are hereby opened to filing of applications and selections in accordance with the following:

a. Applications and selections under the non-mineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land and Small Tract laws by qualified Veterans of World War II or of the Korean Conflict and others entitled to preference rights under the Act of September 27, 1944

ter of section 36. None of the tracts touch the River. There is no public bridge across the North Fork of the White River in the vicinity of these lands. Streams originating from springs located at higher elevations to the southeast across the land. Access by automobile is available to most portions of the subject land. Electricity is available from a power line in the area.

3. The individual tracts vary in size from 2.50 acres to 5.04 acres, and all are square or rectangular in shape. An unofficial plat showing the approximate location of each tract within the area classified can be obtained by writing to the Manager, Colorado Land Office, 371 New Custom House, P. O. Box 1018, Denver 1, Colorado. The appraised value of the tracts varies from \$400 to \$1,600 per tract, as shown below. The tracts will be sold subject to all rights of way of record, and rights of way 25 feet in width for road purposes and for public utilities will be reserved along all sides of each tract in accordance with 43 CFR 257.17 (b). All minerals in the land are reserved to the United States.

Reference No.	Description of tract	Acres	Appraised value
	SIXTH PRINCIPAL MERIDIAN, COLORADO		
	T. 1 N., R. 91 W., Sec. 56		
	Lot 11.....	3.55	\$1,000
	Lot 12.....	3.55	1,000
	Lot 16.....	5.02	1,000
	Lot 17.....	5.03	1,400
	Lot 18.....	2.52	800
	Lot 19.....	2.52	850
	Lot 20.....	5.04	600
	Lot 25.....	4.85	1,200
	Lot 26.....	4.84	1,200
	Lot 28.....	4.84	1,300
	Lot 29.....	4.84	1,200
30	E½NE¼NW¼NE¼	5	1,375
31	N½NE¼NW¼NE¼	2.5	750
32	SW¼NE¼NW¼NE¼	2.5	750
33	NE¼NE¼NW¼NE¼	2.5	750
34	NW¼NE¼NW¼NE¼	2.5	950
35	SW¼NW¼NW¼NE¼	2.5	1,000
36	SE¼NW¼NW¼NE¼	2.5	850
37	NW¼SW¼NW¼NE¼	2.5	1,000
38	SW¼SW¼NW¼NE¼	2.5	900
39	NE¼SE¼NW¼NE¼	5	1,000
40	SE¼SE¼NW¼NE¼	5	1,200
41	E½NE¼SW¼NE¼	5	1,200
42	W½NE¼SW¼NE¼	5	1,500
43	W½NW¼SW¼NE¼	5	1,300
44	SW¼SW¼SW¼NE¼, SE¼	5	1,000
45	SE¼SE¼NW¼	5	1,000
46	NE¼NE¼NW¼	5	900
47	SE¼NE¼NW¼	5	900
48	NW¼NE¼NW¼	5	900
49	SE¼NW¼NW¼	5	500
50	W½SE¼NW¼	5	1,200
51	E½SW¼SE¼NW¼	5	400
52	W½SW¼SE¼NW¼	5	400
53	N½NE¼NW¼SW¼	5	1,200
54	SE¼NE¼NW¼SW¼	5	1,200
55	N½SE¼NW¼SW¼	5	1,200
56	SE¼SE¼NW¼SW¼	5	1,200

4. Veterans preference rights in accordance with the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) were provided for by Small Tract Classification No. 18 (22 F. R. 4865), dated July 2, 1957. This sale is therefore open to the general public irrespective of qualifications upon which veterans preference is based.

The above described tracts will be sold at public auction at a public sale to be held at Denver, Colorado, in Room 383, New Custom House, at 10:00 a. m., July 16, 1958. Bids may be made personally by an individual or his agent at

the sale or by mail. Bids sent by mail will be considered only if received at the Colorado Land Office, Denver, Colorado, prior to 10:00 a. m., July 15, 1958. No sealed bid will be accepted if it is less than the appraised value of the lot. Sealed bids will be opened in the presence of the public in Room 367, New Custom House, Denver, Colorado, beginning at 10:00 a. m. on July 15, 1958. A list of the highest sealed bids received for each lot will be posted for public inspection at the sale. Sealed bids must be in units of \$10. Oral bidding will be in increments to be announced at the sale. See paragraph 3 for appraised values.

5. Persons who have previously acquired a tract under the Small Tract Act are not qualified to secure a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

6. Each bid sent by mail must clearly show: (a) The name and mailing address of the bidder; (b) Offer No. 18; and (c) the number of the lot for which the bid is made, described in accordance with paragraph 3 of this order. Each bid must be accompanied by the full amount bid in the form of a certified or cashier's check, post office money order, or bank draft made payable to the Bureau of Land Management. All unsuccessful bids will be promptly returned after the sale. Bids for separate lots must be enclosed in separate envelopes but payment need only accompany the highest bid, providing all other bids designate the envelope containing the payment. Each envelope must be addressed to the Manager, Colorado Land Office, 371 New Custom House, P. O. Box 1018, Denver 1, Colorado, and carry in the lower left-hand corner of its face the following information and nothing else: (a) "Bid for Small Tract"; (b) "Offer No. 18"; and (c) the reference number and aliquot part description or the lot number for which the bid is made, described in accordance with paragraph 3 above. Sender's name and return address should be shown on the reverse side of the envelope.

7. Each tract will be awarded to the highest qualified bidder. If the highest bid is oral the bidder will be required to make payment for the tract at the close of the bidding, and a personal check will be acceptable for this purpose. Any person who is declared high bidder for any tract will automatically be disqualified for consideration of other tracts at the sale unless he is an agent acting for one or more persons.

8. Inquiries concerning these lands should be addressed to the Land Office Manager, Bureau of Land Management, 371 New Custom House, P. O. Box 1018, Denver 1, Colorado, and should be accompanied by a stamped, self-addressed envelope.

J. ELLIOTT HALL,
Lands and Minerals Officer.

APRIL 8, 1958.

[F. R. Doc. 58-2820; Filed, Apr. 16, 1958; 8:45 a. m.]

[Utah (I-10)]

UTAH

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

APRIL 8, 1958.

An application, Serial No. Utah 028260, for the withdrawal from location and entry under the General Mining Laws, but not the Mineral Leasing Laws, of the lands described below, subject to valid existing rights, was filed March 21, 1958, by the U. S. Department of Agriculture.

The purpose of the proposed withdrawal is to protect an area of considerable scenic attraction and archaeological interest. The area includes the sites of five well-preserved Moki Indian cliff-dwellings, but has not been thoroughly explored and additional cliff-dwellings are likely present. Access roads, parking areas, and public camp and picnic grounds are planned that the attractions may be made available to the public.

For a period of 30 days from the date of publication of this notice, persons having cause to object to the proposed withdrawal may present their objections in writing to the State Supervisor for Utah, Bureau of Land Management, Box 777, Salt Lake City 10, Utah. If any objections are filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the proposed withdrawal may state their views, and where proponents may explain its purpose.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER, either in the form of a public land order or in the form of a notice of determination if the application is rejected. In either case, a separate notice will be sent to each interested party of record.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

MANTI-LA SAL NATIONAL FOREST

Hammond Canyon Archaeological and Scenic Area

T. 35 S., R. 20 E.,

Sec. 28: S½SW¼;

Sec. 29: S½S½;

Sec. 30: Lot 4, SE¼SW¼, S½SE¼;

Sec. 31: Lot 1, N½NE¼, NE¼NW¼;

Sec. 32: N½N½;

Sec. 33: N½NW¼.

Total area 800.19 acres.

VAL B. RICHMAN,
State Supervisor.

[F. R. Doc. 58-2822; Filed, Apr. 16, 1958; 8:46 a. m.]

Bureau of Reclamation

[Public Announcement 26, Amdt. 1]

COLUMBIA BASIN PROJECT, WASHINGTON

PUBLIC ANNOUNCEMENT OF SALES OF
FULLTIME FARM UNITS

APRIL 8, 1958.

Public announcement of the sale of farm units in the South Columbia Basin

Irrigation District, Columbia Basin Project, Washington, dated October 18, 1956, and published in the FEDERAL REGISTER at 21 F. R. 8826, is amended as follows:

Section 1 is deleted in its entirety and the following substituted therefor.

SECTION 1. Offer of farm units for sale. It is hereby announced that certain farm units in the South Columbia Basin Irrigation District, Columbia Basin Project, Washington, will be sold to qualified applicants in accordance with the provisions of this announcement. Applications for certificates of qualification to purchase farm units may be sub-

mitted beginning at 2:00 p. m., November 16, 1956.

In order to permit the continued orderly development and settlement of project lands, this public announcement is issued irrespective of there being pending applications for exchange pursuant to the act of August 13, 1953 (67 Stat. 566).

a. *Farm units presently owned.* The farm units which are presently owned by the United States, and hereby offered for sale, are described as follows:

(1) *Group A.* Farm units for which the purchase price combined with the estimated cost of development is moderate:

Irrigation block No.	Farm unit No.	Gross acres	Tentative irrigable acreage				Nonirrigable	Price
			Total	Class 1	Class 2	Class 3		
18	4	186.0	118.1	14.9	99.5	3.7	67.9	\$4,854.90
	68	112.3	78.9	27.8	19.7	31.4	33.4	5,979.00
	164	148.9	93.1	80.2	10.3	2.6	55.8	7,709.60
	188	210.9	119.8	0.5	108.6	10.7	91.1	4,003.70

(2) *Group B.* Farm units for which the purchase price combined with the estimated cost of development is relatively high: (Some of the units in this group have a lower combined price and cost of development but are substantially limited to the production of hay and pasture.)

Irrigation block No.	Farm unit No.	Gross acres	Tentative irrigable acreage				Nonirrigable	Price
			Total	Class 1	Class 2	Class 3		
11	24	129.6	78.3		66.1	12.2	51.3	\$36,137.20
18	16	101.1	91.1	89.5	1.6		10.0	31,275.20
	31	86.4	72.7	56.3	16.4		13.7	9,962.00
	114	119.4	87.2		76.7	10.5	32.2	7,802.00
	163	129.7	93.4	55.2	38.2		33.3	10,199.30
	165	105.5	90.9	88.0	2.9		14.6	9,167.30
	166	102.9	91.6	90.8	0.8		11.3	9,188.40
	168	109.2	104.5	88.2	16.3		4.7	11,570.90
	169	105.1	99.0	93.8	5.2		6.1	10,806.10
	172	111.2	101.6		101.6		9.6	10,169.00
	173	102.2	94.5	82.1	42.4		7.7	9,646.50
	174	104.9	91.4	32.0	59.4		13.5	8,956.10
	175	106.9	88.5		86.5	2.0	18.4	7,782.80
	176	109.0	98.8		97.8	1.0	10.2	8,549.80
	186	150.7	136.6	36.9	96.6	3.1	14.1	13,861.30
	187	219.7	123.7		70.8	52.9	96.0	2,989.70
	189	248.8	118.2	63.5	40.9	7.8	130.6	5,617.00
	190	150.3	127.2	103.0	24.2		23.1	12,803.10
	198	153.2	128.2	62.2	66.0		25.0	14,828.00
	199	135.5	123.5	91.7	19.2	14.6	10.0	17,703.20
	200	113.0	103.5	50.2	36.4	18.9	7.5	10,102.00
	201	123.3	114.8	68.5	43.6	2.7	8.5	11,582.10
	202	114.9	113.9	49.2	58.3	6.4	1.0	13,487.00
	203	116.3	109.3	61.2	34.1	14.0	7.0	10,953.80
	204	105.1	90.9	81.3	9.6		14.2	10,967.80
	205	120.7	108.5	79.5	29.0		12.2	13,049.00
	206	140.0	130.2	27.0	58.7	34.5	19.8	12,186.20
	207	114.7	99.2	20.4	61.5	17.3	15.5	9,152.30

b. *Additional farm units.* If, through the operation of its land acquisition program, the United States should, following the date of this announcement and prior to the date on which the first farm unit is offered for selection to an applicant under the provisions hereof, own additional farm units in the South Columbia Basin Irrigation District which are scheduled to receive water before the close of the 1957 irrigation season, such farm units may be offered for sale under the provisions of this announcement.

The official plats of these irrigation blocks are on file in the office of the County Auditor of Franklin County in Pasco, Washington, and copies are on file in the offices of the Bureau of Reclamation at Ephrata, Washington, and Boise, Idaho.

Section 2 is deleted in its entirety and the following substituted therefor.

SEC. 2. Limit of acreage which may be purchased. The lands covered by this announcement have been divided into farm units. Each of the farm units represents the acreage which, in the opinion of the Regional Director, Region 1, Bureau of Reclamation, will support an average-size family at a suitable level of living. The law provides that no farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with any person who, or a member of whose family, has theretofore purchased or entered into a contract to purchase a farm unit under the Columbia Basin Project Act or then owns a farm unit within the Columbia Basin Project, except those whose farm units have been acquired by the United States for exchange purposes. A family is defined as comprising husband or wife, or both, together with their children under 18

years of age, or all of such children if both parents are dead.

Section 7 is amended as follows: Subsection 7d is renumbered 7e and the following included as Subsection 7d.

d. Not have outstanding a certificate of qualification for the purchase of a farm unit on the Columbia Basin Project.

Section 8 is deleted in its entirety and the following substituted therefor.

Sec. 8. Filing application blanks. Any person desiring to apply for a certificate of qualification to purchase a farm unit offered for sale by this announcement must fill out the attached application blank and file it with the Bureau of Reclamation, Ephrata, Washington, in person or by mail. Additional application blanks may be obtained from the office of the Bureau of Reclamation at Ephrata, Washington; Post Office Box 937, Boise, Idaho; or Washington, D. C. No advantage will accrue to an applicant who presents an application in person. Each application submitted, including the evidence of qualification to be submitted following the public drawing, will become a part of the records of the Bureau of Reclamation and cannot be returned to the applicant.

Section 16 is amended as follows: Subsection 16f is renumbered 16h and two new subsections are added as follows:

f. *Possession.* The purchaser may take possession of the lands being purchased when he has complied with the requirements described in section 15 and the land sale contract has been executed by the contracting officer for the United States, except that if a farm unit is under lease when sold possession may not be taken until the end of the period for which the unit is leased. Such leases occur infrequently and are of not more than one year's duration.

g. *Sales, assignments, leases.* Each purchaser shall be required to agree that he, his heirs and assigns, will not, except with the approval of the Project Manager, sell, assign, lease, or otherwise dispose of, or contract to sell, assign, lease, or otherwise dispose of, his land during a period ending five years from the date of his purchase contract.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

[F. R. Doc. 58-2824; Filed, Apr. 16, 1958; 8:46 a. m.]

[Public Announcement 25, Amdt. 1]

COLUMBIA BASIN PROJECT, WASHINGTON
PUBLIC ANNOUNCEMENT OF SALE OF FULL-TIME FARM UNITS

APRIL 8, 1958.

Public announcement of the sale of farm units in the South Columbia Basin Irrigation District, Columbia Basin Project, Washington, dated October 18, 1956, and published in the FEDERAL REGISTER at 21 F. R. 8322, is amended as follows:

Section 1 is deleted in its entirety and the following substituted therefor.

Section 1. Offer of farm units for sale. It is hereby announced that certain farm units in the South Columbia Basin Irrigation District, Columbia Basin Project, Washington, will be sold to qualified applicants in accordance with the provisions of this announcement. Applications for certificates of qualification to purchase farm units may be submitted beginning at 2:00 p. m., November 16, 1956.

Irrigation block No.	Farm unit No.	Gross acres	Tentative irrigable acreage				Price
			Total	Class 1	Class 2	Class 3	
14	1	113.2	99.2	2.1	96.2	0.8	\$5,968.00
	60	112.8	85.0	2.1	92.1	0.8	5,983.40
	80	108.5	87.2	2.1	84.1	0.8	5,403.30
	112	112.2	102.1	64.6	37.1	2.0	6,175.10
	113	112.2	111.4	63.0	48.1	2.3	5,334.00
	114	108.1	103.3	51.4	51.8	0.1	5,963.10
	122	114.9	104.0	85.0	18.1	0.9	6,841.10
	146	109.2	88.7	50.2	38.5	14.7	6,722.40
	150	100.3	88.7	63.0	25.7	0.6	6,148.30
	183	122.7	111.4	54.9	56.5	0.5	7,265.70
15	1	113.2	99.2	2.1	96.2	0.8	\$5,968.00
	60	112.8	85.0	2.1	92.1	0.8	5,983.40
	80	108.5	87.2	2.1	84.1	0.8	5,403.30
	112	112.2	102.1	64.6	37.1	2.0	6,175.10
	113	112.2	111.4	63.0	48.1	2.3	5,334.00
	114	108.1	103.3	51.4	51.8	0.1	5,963.10
	122	114.9	104.0	85.0	18.1	0.9	6,841.10
	146	109.2	88.7	50.2	38.5	14.7	6,722.40
	150	100.3	88.7	63.0	25.7	0.6	6,148.30
	183	122.7	111.4	54.9	56.5	0.5	7,265.70

b. Group B. Farm units for which the purchase price combined with the estimated cost of development is relatively high: (Some of the units in this group have a lower combined price and cost of development but are substantially limited to the production of hay and pasture.)

Irrigation block No.	Farm unit No.	Gross acres	Tentative irrigable acreage				Price
			Total	Class 1	Class 2	Class 3	
13	41	193.0	115.8	34.1	69.3	25.4	\$2,400.15
	2	119.3	104.9	104.9	104.9	1.3	2,400.15
	28	90.9	90.3	90.3	90.3	1.3	2,400.15
	41	129.4	119.5	119.5	119.5	2.1	2,400.15
	45	102.7	96.1	96.1	96.1	2.1	2,400.15
	55	137.4	109.5	109.5	109.5	2.1	2,400.15
	62	113.6	98.2	98.2	98.2	2.1	2,400.15
	73	147.8	125.4	125.4	125.4	2.1	2,400.15
	74	131.9	94.1	94.1	94.1	2.1	2,400.15
	78	181.3	114.2	114.2	114.2	2.1	2,400.15
14	79	136.8	118.8	118.8	118.8	2.1	2,400.15
	90	154.7	130.9	130.9	130.9	2.1	2,400.15
	92	178.5	151.9	151.9	151.9	2.1	2,400.15
	95	169.9	142.6	142.6	142.6	2.1	2,400.15
	96	134.4	122.0	122.0	122.0	2.1	2,400.15
	97	158.7	132.9	132.9	132.9	2.1	2,400.15
	98	145.2	121.7	121.7	121.7	2.1	2,400.15
	100	122.6	104.3	104.3	104.3	2.1	2,400.15
	101	162.2	114.1	114.1	114.1	2.1	2,400.15
	102	141.0	113.2	113.2	113.2	2.1	2,400.15

The official plats of these irrigation blocks are on file in the office of the County Auditor of Franklin County in Pasco, Washington, and copies are on file in the offices of the Bureau of Reclamation at Ephrata, Washington, and Boise, Idaho.

Section 2 is deleted in its entirety and the following substituted therefor.

Sec. 2. Limit of acreage which may be purchased. The lands covered by this announcement have been divided into farm units. Each of the farm units represents the acreage which, in the opinion of the Regional Director, Region 1, Bureau of Reclamation, will support an average-size family at a suitable level of living. The law provides that no farm unit shall be sold to, and no contract to sell a farm unit shall be entered into with any person who, or a member of

whose family, has theretofore purchased or entered into a contract to purchase a farm unit under the Columbia Basin Project Act or then owns a farm unit within the Columbia Basin Project, except those whose farm units have been acquired by the United States for exchange purposes. A family is defined as comprising husband or wife, or both, together with their children under 18 years of age, or all of such children if both parents are dead.

Section 7 is amended as follows:

Subsection 7d is renumbered 7e and the following included as Subsection 7d.

d. Not have outstanding a certificate of qualification for the purchase of a farm unit on the Columbia Basin Project.

Section 8 is deleted in its entirety and the following substituted therefor.

Irrigation block No.	Farm unit No.	Gross acres	Tentative irrigable acreage				Price
			Total	Class 1	Class 2	Class 3	
14	117	194.0	114.3	87.3	21.2	5.5	\$7,773.00
	118	144.0	119.0	119.0	119.0	5.5	7,901.00
	119	182.3	129.6	129.6	129.6	5.5	8,306.20
	120	103.4	97.6	97.6	97.6	2.9	6,377.30
	121	166.7	122.9	122.9	122.9	5.0	9,861.30
	122	168.2	122.9	122.9	122.9	5.0	11,283.70
	123	167.1	113.1	113.1	113.1	5.0	7,822.30
	124	158.4	121.1	121.1	121.1	3.9	7,868.70
	125	156.2	114.1	114.1	114.1	3.9	6,900.40
	127	122.4	122.0	122.0	122.0	6.2	7,387.30
15	128	156.2	114.1	114.1	114.1	6.2	7,387.30
	129	146.1	108.9	108.9	108.9	1.9	6,423.10
	130	146.1	108.9	108.9	108.9	1.9	6,423.10
	131	132.3	111.2	111.2	111.2	9.4	8,137.00
	132	132.3	111.2	111.2	111.2	9.4	8,137.00
	133	132.3	111.2	111.2	111.2	9.4	8,137.00
	134	132.3	111.2	111.2	111.2	9.4	8,137.00
	135	132.3	111.2	111.2	111.2	9.4	8,137.00
	136	132.3	111.2	111.2	111.2	9.4	8,137.00
	137	132.3	111.2	111.2	111.2	9.4	8,137.00

SEC. 8. Filing application blanks. Any person desiring to apply for a certificate of qualification to purchase a farm unit offered for sale by this announcement must fill out the attached application blank and file it with the Bureau of Reclamation at Ephrata, Washington, in person or by mail. Additional application blanks may be obtained from the office of the Bureau of Reclamation at Ephrata, Washington; Post Office Box 937, Boise, Idaho; or Washington, D. C. No advantage will accrue to an applicant who presents an application in person. Each application submitted, including the evidence of qualification to be submitted following the public drawing, will become a part of the records of the Bureau of Reclamation and cannot be returned to the applicant.

Section 16 is amended as follows:

Subsection 16f is renumbered 16h and two new subsections are added as follows:

f. Possession. The purchaser may take possession of the lands being purchased when he has complied with the requirements described in section 15 and the land sale contract has been executed by the contracting officer for the United States, except that if a farm unit is under lease when sold, possession may not be taken until the end of the period for which the unit is leased. Such leases occur infrequently and are of not more than one year's duration.

g. Sales, assignments, leases. Each purchaser shall be required to agree that he, his heirs and assigns, will not, except with the approval of the Project Manager, sell, assign, lease, or otherwise dispose of, or contract to sell, assign, lease, or otherwise dispose of, his land during a period ending five years from the date of his purchase contract.

FRED G. AANDAHL,

Assistant Secretary of the Interior.

[F. R. Doc. 58-2823; Filed, Apr. 16, 1958; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case No. 246]

RUDY-PATRICK SEED CO.

ORDER DENYING EXPORT PRIVILEGES

In the matter of Rudy-Patrick Seed Company, 1212 West Eighth Street, Station A, Kansas City 1, Missouri, respondent; Case No. 246.

The respondent, Rudy-Patrick Seed Company, was charged by the Agent-in-Charge, Investigation Staff, Bureau of Foreign Commerce, United States Department of Commerce, with violations of the Export Control Act of 1949, as amended, and regulations promulgated thereunder, which charge alleged in general that it had engaged in a joint venture with Northrup, King & Co. of Minneapolis, Minnesota, and R. W. Gunson (Seeds) Ltd., of London, England, and that said joint venture, with knowledge that seeds acquired by it from the United States Department of Agriculture might not be sold and transhipped to Soviet Bloc destinations without prior approval

from the United States Department of Commerce, nevertheless did sell and transship quantities of such seeds to such destinations without first obtaining such required approval. (See 23 F. R. 1153.) Respondent was duly served with the charging letter and duly appeared herein.

In accordance with the provisions of § 382.10 of the Export Regulations, with the agreement of the Investigation Staff, it has submitted to the Compliance Commissioner a proposal for the issuance of a consent order, substantially in the form hereof. The Compliance Commissioner has reviewed the facts of this case and the proposal, has approved the proposal, has reported the facts to the undersigned, who has, in turn, accepted the same.

Now, after reviewing and considering the entire record of this case and the Compliance Commissioner's report, I hereby make the following findings of fact.

1. At all times hereinafter mentioned, the respondent, Rudy-Patrick Seed Company, was and now is engaged in the wholesale seed business, both domestic and export, in Kansas City, Missouri.

2. In the latter part of 1955 and in January 1956, the Rudy-Patrick Seed Company entered into a joint venture with Northrup, King & Co. and R. W. Gunson (Seeds) Ltd. for the purpose of acquiring large quantities of seeds from the Commodity Credit Corporation, an agency of the United States Department of Agriculture, which seeds were contemplated by the joint venture to be sold in various parts of the world outside the United States of America.

3. At some time prior to the exportation from the United States of the seeds involved herein, Rudy-Patrick Seed Company and its coadventurers became informed and knew that seeds so purchased by them might not be sold and transhipped to various Soviet Bloc destinations without prior approval by the United States Department of Commerce and that it was the general policy of this Department to deny applications for validated licenses to make exportations for that purpose.

4. In December 1955, the joint venture, acting through Northrup, King & Co., purchased about one thousand tons of seeds from the Commodity Credit Corporation and, prior to the exportation thereof from the United States, R. W. Gunson (Seeds) Ltd., acting on behalf of the joint venture, made sales of portions thereof to purchasers in Czechoslovakia and East Germany.

5. Prior to the exportation of such seeds from the United States, Rudy-Patrick Seed Company became informed that such sales had been made but, having such knowledge, remained silent, took no steps to prevent the happening of the events hereinafter set forth, and continued as a participant in the joint venture.

6. In furtherance of the objective of said joint venture, Northrup, King & Co. thereafter exported said seeds from the United States, R. W. Gunson (Seeds) Ltd. received them in due course at Rotterdam and Hamburg and thence sold and transhipped the greater portion

thereof to purchasers in Czechoslovakia and East Germany.

7. Said exportations were made from the United States and said seeds were sold and transhipped to persons in Soviet Bloc destinations without prior license or approval from the United States Department of Commerce; and the members of said joint venture all participated therein and said acts were performed with knowledge that such approval and license were required and with the intention not to make known to the United States Department of Commerce the true ultimate destination and not to apply for such approval and license.

8. In connection with the said exportations and for the purpose of accomplishing them on behalf of the joint venture, shipper's export declarations were filed with the United States Collector of Customs, at the Port of Stockton, California, in which declarations it was knowingly and falsely stated that the ultimate destinations of the seeds being exported thereunder were the Netherlands, West Germany, and England.

And, from the foregoing, the following are my conclusions:

A. Rudy-Patrick Seed Company knowingly permitted the doing of acts prohibited by and the omission of acts required by the Export Control Law and the regulations issued thereunder, thus violating § 381.2 of the Export Regulations.

B. Rudy-Patrick Seed Company knowingly participated with its coadventurers, Northrup, King & Co. and R. W. Gunson (Seeds) Ltd., in exportations from the United States knowing that with respect to the whole or part thereof, violations of the Export Control Act and regulations had occurred, were about to occur, and were intended to occur, thus violating § 381.4 of the Export Regulations.

Now, after careful consideration of the entire record and being of the opinion that the proposal for this consent order should be accepted and that this order is necessary to achieve effective enforcement of the law: *It is hereby ordered:*

I. For the period of one year commencing April 15, 1958, except as qualified in Part III hereof, respondent hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by the respondent, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the preparation or filing of any export license application or document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the receiving, ordering, buying, selling, delivering, using, or disposing in any foreign country of any commodities in whole or in part exported

or to be exported from the United States, and (e) in financing, forwarding, transporting, or other servicing of such exports from the United States.

II. Such denial shall extend not only to the respondent, but also to any person, firm, corporation, or business organization with which it may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

III. Without further order of the Bureau of Foreign Commerce, one month after April 15, 1958, the respondent shall have its export privileges restored to it conditionally, the condition for such restoration being that, until April 14, 1959, it shall comply in all respects with this order and with all other requirements of the Export Control Act of 1949, as amended, and all regulations, licenses, and orders issued thereunder.

IV. The privileges so conditionally restored to the respondent may be revoked summarily and without notice to it upon a finding by the Director of the Office of Export Supply, or such other official as may at that time be exercising the duties now exercised by him, that at any time after April 15, 1958, it has knowingly failed to comply with any condition set forth in Part III hereof, in which event a supplemental order shall be entered against it, which order shall deny all export privileges to it for eleven months following the entry of such supplemental order. The entry of such supplemental order shall not prevent the Bureau of Foreign Commerce from taking such other and further action based on such violation as it shall deem warranted. In the event that such supplemental order is issued, the respondent shall have the right to appeal therefrom, as provided in the export regulations.

V. No person, firm, corporation, or other business organization, whether in the United States or elsewhere, during any time when the respondent or related party is prohibited under the terms hereof from engaging in any activity within the scope of Part I hereof, shall, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any export license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, (b) order, receive, buy, sell, deliver, use, dispose of, finance, transport, forward, or otherwise service or participate in, any exportation from the United States, on behalf of or in any association with the respondent or any related party, or (c) do any of the foregoing acts with respect to any exportation in which the respondent or any related party may have any interest or obtain any benefit of any kind or nature, direct or indirect.

Dated: April 14, 1958.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F. R. Doc. 58-2836; Filed, Apr. 16, 1958;
8:49 a. m.]

Federal Maritime Board

ALCOA STEAMSHIP CO., INC., ET AL.

NOTICE OF CANCELLATION OF AGREEMENT

Notice is hereby given that by order dated April 7, 1958, the Federal Maritime Board approved the cancellation of the following described agreement pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U. S. C. 814):

Agreement No. 4610-A, approved January 2, 1936, between Alcoa Steamship Company, Inc., and United Fruit Company, members of the United States Atlantic and Gulf Ports—Jamaica (B. W. I.) Steamship Conference, and J. S. Webster & Sons, recording the undertaking of J. S. Webster & Sons to maintain the rates on lumber from United States Gulf ports to Kingston, Jamaica, and Jamaican outports, as established by the conference, in return for being permitted to participate in conference contracts with shippers of lumber. This agreement was cancelled inasmuch as J. S. Webster & Sons no longer operate as a common carrier of lumber in the trade covered by the agreement.

Dated: April 14, 1958.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-2840; Filed, Apr. 16, 1958;
8:50 a. m.]

AERO-MARINE FORWARDING CO. ET AL.

NOTICE TO SHOW CAUSE WHY CERTAIN FREIGHT FORWARDER REGISTRATIONS SHOULD NOT BE CANCELLED

Notice is hereby given that at a session of the Federal Maritime Board held at its Office in Washington, D. C., the 10th day of April 1958, the Board entered the following order:

Whereas, the following registrants were assigned freight forwarder registration numbers pursuant to General Order 72 (46 CFR 244):

Name	Reg. No.	Date issued
Aero-Marine Forwarding Co. (Miami) (Francis X. Roman, dba)	2005	4-12-56
Dominquez Company (New York) (Charles Junod Dominguez, dba)	2000	4-2-56
Elar Enterprises (New York) Leon Reichert, dba	2016	5-7-56
Greenbaum, Seymour or Helen (Atlanta, Ga.)	1947	11-15-53
Haake, Warren (Jersey City, N. J.)	1837	2-25-55
M & A Forwarding Company (New York) (Anthony G. Auciello, dba)	1879	6-7-55
Mid-Continent Forwarding Co., Inc. (New Orleans)	1992	8-7-56
Stanford Company (New York) (B. W. Stanford, dba)	1431	2-5-52
Paramount Shipping Company (New York) (Mary Stabile, dba)	1611	4-14-53
Transportation Sales Company (Jersey City, N. J.)	1812	12-16-54

Whereas, the Board has by registered letters requested these registrants to furnish certain information in connection with their forwarding operations, pursuant to § 244.3 of General Order 72; and

Whereas, registered letters sent to the last two registrants have been returned by the post office as undeliverable, and the Board is unable to exercise regulatory

authority over them because their present whereabouts is unknown; and

Whereas, the other registrants named above have failed to respond to registered letters in violation of General Order 72; now, therefore,

It is ordered, That the above named registrants show cause, in writing or at a public hearing to be hereafter set if requested by registrant, within thirty (30) days from the date of publication hereof in the FEDERAL REGISTER, why their registrations should not be cancelled for the reasons above stated, and

It is further ordered, That failure of any registrant named above to respond as ordered hereby will result in automatic cancellation of its freight forwarder registration without further action by the Board; and the Secretary shall notify the registrant by letter to be sent by registered mail to the last known address of the registrant; and

It is further ordered, That a copy of this order be sent by registered mail to each of the above-named registrants at its last known address; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

Dated: April 14, 1958.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-2839; Filed, Apr. 16, 1958;
8:49 a. m.]

[Docket No. 834]

ANCHOR LINE, LTD., ET AL.

NOTICE OF INVESTIGATION AND OF HEARING

In the matter of agreement No. 8400, between Anchor Line Limited, the Bristol City Line of Steamships Ltd., et al.

On April 7, 1958, the Federal Maritime Board entered the following order:

It appearing that pursuant to section 15 of the Shipping Act, 1916 (46 U. S. C. 814) an agreement has been filed for approval, which has been assigned Federal Maritime Board Agreement No. 8400, between Anchor Line Limited, The Bristol City Line of Steamships Ltd., Canadian Pacific Railway Company, The Cunard Steam-Ship Co. Ltd., Ellerman's Wilson Line Limited, Furness, Withy & Co. Limited, Manchester Liners Ltd., and The Ulster Steamship Company Ltd.; and

It further appearing that a notice of the filing of said agreement was published in the FEDERAL REGISTER on January 18, 1958 (23 F. R. 849); and

It further appearing that a petition requesting an investigation and hearing and disapproval of Agreement No. 8400 has been filed on behalf of the three members of the Great Lakes-United Kingdom Westbound Conference (operating under Agreement No. 8140 approved under section 15 of said act), in which it is alleged that Agreement No. 8400, if approved, would result in a situation detrimental to the commerce of the United States; now therefore

It is ordered, That the request of the aforementioned protestants for a hearing is granted and that an investigation is hereby instituted by the Board on its own motion pursuant to section 22 of the Shipping Act, 1916 (46 U. S. C. 821) to determine whether operation under Agreement No. 8400 will be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States within the meaning of section 15 of said act;

It is further ordered, That this order be published in the FEDERAL REGISTER, and that a copy of such order be served upon each of the respondents; and

It is further ordered, That a copy of such order be furnished the protestants; and

It is further ordered, That this proceeding be assigned for hearing before an examiner of the Hearing Examiners' Office at a date and place to be fixed by the Chief Examiner.

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an examiner of the Board's Hearing Examiners' Office at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies), having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board promptly and file petitions for leave to intervene in accordance with Rule 5 (n) (46 CFR 201.74) of said rules.

Dated: April 14, 1958.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-2838; Filed, Apr. 16, 1958;
8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9214]

AMERICAN AIRLINES, INC.; NEW YORK-SAN FRANCISCO NONSTOP CASE

NOTICE OF PREHEARING CONFERENCE

In the matter of that portion of the application of American Airlines, Inc. severed from Docket No. 5903 by Order No. E-12103 which would authorize it to provide nonstop service between New York/Newark and San Francisco/Oakland.

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on April 29, 1958, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue

NW., Washington, D. C., before Examiner Walter W. Bryan.

Dated at Washington, D. C., April 11, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-2850; Filed, Apr. 16, 1958;
8:51 a. m.]

[Docket No. 9223]

NATIONAL AIRLINES, INC.; ENFORCEMENT PROCEEDING

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the unrealistic schedules filed and published by National Airlines, Inc.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding heretofore assigned to be held on April 23, 1958, is hereby postponed to May 26, 1958, at 10:00 a. m. d. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Dated at Washington, D. C., April 10, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-2851; Filed, Apr. 16, 1958;
8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12309; FCC 58M-379]

VIDEO INDEPENDENT THEATRES, INC.
(KVIT)

ORDER CONTINUING HEARING

In re application of Video Independent Theatres, Inc. (KVIT), Santa Fe, New Mexico, Docket No. 12309, File No. BMPCT-4586; for modification of construction permit.

As stated at the Oral Argument held today: It is ordered, This 11th day of April 1958, that the hearing now scheduled for April 15, 1958, is further continued to May 5, 1958, at 10 a. m., in the offices of the Commission, Washington, D. C.

Released: April 14, 1958.

FEDERAL COMMUNICATIONS
COMMISSION.

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2842; Filed, Apr. 16, 1958;
8:50 a. m.]

[Docket No. 12344 etc.; FCC 58M-376]

L. E. U. BROADCASTING CO. ET AL.

ORDER CONTINUING HEARING

In re applications of L. E. U. Broadcasting Co., Erie, Pennsylvania, Docket No. 12344, File No. BPCT-2362; The Jet Broadcasting Company, Inc., Erie, Penn-

sylvania, Docket No. 12345, File No. BPCT-2388; WERC Broadcasting Corporation, Erie, Pennsylvania, Docket No. 12346, File No. BPCT-2402; for construction permits for new television broadcast stations (Channel 66).

The Hearing Examiner having under consideration a joint oral request from the three applicants for continuance of the hearing conference and hearing proper;

It appearing that there is no urgent necessity for an immediate commencement of the hearing and that the Broadcast Bureau expressed no opposition to the requested continuance; and

It further appearing that there is a hearing conference currently scheduled for April 17 at 2:00 p. m. and the commencement of hearing is scheduled for May 12, 1958;

It is ordered, This 10th day of April 1958, that the hearing conference is continued from April 17 to May 20, 1958, at 10:00 a. m. and the hearing scheduled for May 12, 1958, is continued indefinitely.

Released: April 11, 1958.

FEDERAL COMMUNICATIONS
COMMISSION.

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2843; Filed, Apr. 16, 1958;
8:50 a. m.]

[Docket No. 12363; FCC 58M-370]

OSCAR GALJOUR

ORDER SCHEDULING HEARING

In the matter of Oscar Galjour, P. O. Box 788, Aransas Pass, Texas, Docket No. 12363; order to show cause why there should not be revoked the license for Radio Station WB-8045 aboard the vessel "Buddy Boy."

It is ordered, This 10th day of April 1958, that Hugh B. Hutchison will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 12, 1958, in Washington, D. C.

Released: April 11, 1958.

FEDERAL COMMUNICATIONS
COMMISSION.

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2844; Filed, Apr. 16, 1958;
8:50 a. m.]

[Docket Nos. 12388, 12389; FCC 58-328]

MID-AMERICA BROADCASTERS, INC., AND
MUTUAL BROADCASTING SYSTEM, INC.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of Mid-America Broadcasters, Inc., San Francisco, California, Docket No. 12388, File No. BPH-2325; Mutual Broadcasting System, Inc., San Francisco, California, Docket No. 12389, File No. BPH-2329; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 9th day of April 1958;

The Commission having under consideration the above-captioned applications of Mid-America Broadcasters, Inc., and the Mutual Broadcasting System, Inc., for construction permits for new Class B FM broadcast stations in San Francisco, California, to operate on 95.7 megacycles (Channel No. 239);

It appearing that both of the applicants are legally, technically, financially and otherwise qualified to operate their proposed stations, but that the operation of both stations as proposed would result in mutually destructive interference; and

It further appearing that pursuant to section 309 (b) of the Communications Act of 1934, as amended, the subject applicants were advised by letter dated January 24, 1958, of the aforementioned interference and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing that both applicants amended their applications with respect to the facilities to be installed but not with respect to frequency so that the problem of mutually destructive interference still remains; and

It further appearing that the Commission, after consideration of the above, is of the opinion that a hearing on these applications is necessary; and

It further appearing that the Mutual Broadcasting System, Inc., proposes to mount the FM antenna on the antenna structure of Station KFRC (AM); and

It further appearing that the Mutual Broadcasting System, Inc., proposes a Gates, Type No. BF-10E, 10-Kw transmitter which has not been type accepted by the Commission; and

It further appearing that the Mutual Broadcasting System, Inc., proposes a General Radio, Type No. 1185B, frequency and modulation monitor which has not been type accepted by the Commission; and

It further appearing that the effective radiated power of 39.77 kilowatts proposed by the Mutual Broadcasting System, Inc., will not be obtained with the facilities proposed;

It is ordered, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the said applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the operations proposed in the above-captioned applications would better serve the public interest in the light of the evidence adduced with respect to the significant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate its proposed station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by an attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That in the event of a grant of the application of the Mutual Broadcasting System, Inc., the construction permit shall contain a condition requiring that Station KFRC shall receive permission from the Commission to determine power of KFRC by the indirect method during installation of the FM antenna and rechecking resistance of the tower after the installation has been completed, and submitting Forms 302 for KFRC in the event of a change in resistance of the tower.

It is further ordered, That in the event of a grant of the application of the Mutual Broadcasting System, Inc., the construction permit shall contain a condition requiring the submission of sufficient data in accordance with § 3.250 of the Commission's rules for type acceptance of the transmitter.

It is further ordered, That in the event of a grant of the application of the Mutual Broadcasting System, Inc., the construction permit shall contain a condition requiring the installation of an approved type of frequency and modulation monitor.

It is further ordered, That in the event of a grant of the application of the Mutual Broadcasting System, Inc., the construction permit shall specify an effective radiated power of 37 kilowatts with a transmitter power output of 10 kilowatts.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 10, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2845; Filed, Apr. 16, 1958;
8:50 a. m.]

[Docket Nos. 12388, 12389; FCC 58M-373]

MID-AMERICA BROADCASTERS, INC. AND
MUTUAL BROADCASTING SYSTEM, INC.

ORDER SCHEDULING HEARING

In re applications of Mid-America Broadcasters, Inc., San Francisco, Cali-

fornia, Docket No. 12388, File No. BPH-2325; Mutual Broadcasting System, Inc., San Francisco, California, Docket No. 12389, File No. BPH-2329; for construction permits (FM Facilities).

It is ordered, This 10th day of April 1958, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 16, 1958, in Washington, D. C.

Released: April 11, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2846; Filed, Apr. 16, 1958;
8:51 a. m.]

[Docket Nos. 12390, 12391; FCC 58M-374]

KWG BROADCASTING CO. AND VALLEY
BROADCASTERS, INC.

ORDER SCHEDULING HEARING

In re applications of KWG Broadcasting Company, Stockton, California, Docket No. 12390, File No. BPH-2348; Valley Broadcasters, Inc., Stockton, California, Docket No. 12391, File No. BPH-2354; for construction permits (FM Facilities).

It is ordered, This 10th day of April 1958, that Herbert Sharfman will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 16, 1958, in Washington, D. C.

Released: April 11, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 58-2847; Filed, Apr. 16, 1958;
8:51 a. m.]

FEDERAL POWER COMMISSION

[Project No. 2242]

CITY OF EUGENE, OREG.

NOTICE OF APPLICATION FOR LICENSE

APRIL 11, 1958.

In the matter of City of Eugene, Oregon, by and through its Eugene Water & Electric Board; Project No. 2242.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by the City of Eugene, Oregon, by and through its Eugene Water & Electric Board, for license for a proposed hydroelectric development, known as the Carmen-Smith Project, designated as Project No. 2242, to be located on the McKenzie River and its tributary Smith River, in Lane and Linn Counties, Oregon, and affecting lands of the United States within the Willamette National Forest.

The proposed project will comprise the Carmen Diversion Dam on the McKenzie River consisting of a low earth-fill dike about 3,200 feet long with a rock-fill crib spillway with initial crest of elevation 2,612 feet creating a reservoir containing

about 300 acre-feet of pondage extending upstream to within one-quarter mile of the Middle Falls; a diversion tunnel about 11,500 feet long with an intake on Carmen reservoir and discharging into the forebay of Smith River dam; the Smith River dam—a rock-fill dam about 215 feet high located just above the mouth of Bunchgrass Creek, on Smith River, with spillway crest at elevation 2,600 feet and creating a reservoir or forebay to provide gross storage of about 13,000 acre-feet; a power tunnel about 7,800 feet long from Smith River Reservoir; a surge tank; a steel penstock, 1,050 feet long; Carmen powerhouse containing two 37,000 horsepower turbines each connected to a 25,000 kva generator; a substation; the Trail Bridge Dam—a rock-fill dam about 90 feet high on McKenzie River creating a reregulating reservoir with normal pool elevation 2,088 feet providing about 1,800 acre-feet of pondage; a powerhouse as an integral part of the dam containing one 6,650 horsepower turbine connected to a 6,250 kva generator; a 14-kv transmission line from Trail Bridge plant to the Carmen substation; a 115-kv transmission line from Carmen substation to the Cougar switchyard, a distance of 19 miles; and appurtenant facilities.

The application states that upon receipt of a license for the Carmen-Smith Project, applicant will voluntarily surrender its license for Beaver March Project No. 2059.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is May 26, 1958. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-2827; Filed, Apr. 16, 1958;
8:47 a. m.]

[Docket No. G-14222 etc.]

AMERADA PETROLEUM CORP. ET AL.

NOTICE OF APPLICATIONS AND DATE OF
HEARING

APRIL 11, 1958.

In the matters of Amerada Petroleum Corporation, Docket No. G-14222; Transcontinental Gas Pipe Line Corporation, Docket No. G-14340; Transcontinental Production Company, Operator, et al., Docket No. G-14343.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), Amerada Petroleum Corporation (Amerada) and Transcontinental Production Company, Operator, et al. (Transco Production), filed separate applications for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of facilities necessary for receiving and transporting natural gas and authorizing the sale of natural gas in interstate commerce for resale as hereinafter described, subject to the jurisdiction of the

Commission, all as more fully represented in the respective applications, which are on file with the Commission and open to public inspection.

Transco in its application filed on January 28, 1958, in Docket No. G-14340, seeks authorization to construct and operate two meter stations, a dehydration station, and appurtenances together with approximately 1,800 feet of field lines to extend from the proposed meter stations to two wells in the Mission Bridge area, Victoria County, Texas, for the purpose of receiving natural gas into its interstate transmission facilities produced in said area by Amerada and Transco Production.

The estimated total initial cost of the proposed facilities of Transco is \$20,000, which cost will be financed from company funds.

Amerada and Transco Production¹ on January 10, 1958 in Docket No. G-14222 and January 28, 1958, in Docket No. G-14343, respectively, filed applications seeking authority to sell natural gas in interstate commerce to Transco from production as described above, to be made pursuant to separate gas sales contracts dated November 25, 1957, and October 18, 1957, respectively. The latter contract is amended by supplemental agreement dated January 14, 1958.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 15, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 8, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-2828; Filed, Apr. 16, 1958;
8:47 a. m.]

¹Transco Production filed on its own behalf and as operator on behalf of Paul Dougherty and Gentry Kidd, non-operating co-owner.

[Docket Nos. G-14517, G-14655]

ARKANSAS LOUISIANA GAS CO. AND TEXAS
ILLINOIS NATURAL GAS PIPELINE CO.

NOTICE OF APPLICATIONS AND DATE OF
HEARING

APRIL 11, 1958.

In the matters of Arkansas Louisiana Gas Company, Docket No. G-14517; Texas Illinois Natural Gas Pipeline Company, Docket No. G-14655.

Take notice that on February 19, 1958, Arkansas Louisiana Gas Company (Arkansas Louisiana) filed in Docket No. G-14517 an application, pursuant to section 7 (c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the sale and delivery of up to 40,000 Mcf of natural gas per day between April 1 and November 30, 1958, but not over a total of 8,000,000 Mcf during this period, to Texas Illinois Natural Gas Pipeline Company (Texas Illinois), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Delivery is to be made at the existing interconnection between the two systems located in Harrison County, Texas, where Arkansas Louisiana's 16-inch Line F-185 crosses the 30-inch main transmission line of Texas Illinois. The subject gas is to come from Arkansas Louisiana's reserves in the Willow Springs and Hallsville Fields in Texas.

On March 12, 1958, Texas Illinois filed in Docket No. G-14655 its companion application for a certificate of public convenience and necessity authorizing the operation of an existing tap connection on its main transmission line in Harrison County, Texas, for the purchase and receipt of natural gas from Arkansas Louisiana, all as more fully set forth in the application which is also on file with the Commission and open to public inspection.

It is stated that "minimum take" provisions in Arkansas Louisiana's gas purchase obligations sometimes exceed the demands on its system and the sale of surplus gas to Texas Illinois as it becomes available during the off-peak season will prevent paying for gas not actually taken.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 22, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it

will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 8, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIE,
Secretary.

[F. R. Doc. 58-2829; Filed, Apr. 16, 1958;
8:47 a. m.]

[Docket No. G-14824]

STEVENS COUNTY OIL & GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

APRIL 11, 1958.

The Stevens County Oil & Gas Company (Stevens County) on March 14, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filings:

Description: (1) Supplemental Agreement,¹ dated March 1, 1958. (2) Notice of Change, undated.

Purchaser: Northern Natural Gas Company.

Rate schedule designation: (1) Supplement No. 9 to Stevens County's FPC Gas Rate Schedule No. 20. (2) Supplement No. 10 to Stevens County's FPC Gas Rate Schedule No. 20.

Effective date: April 14, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Stevens County filed a copy of the agreement in which the seller and buyer agree to the increased price as a result of the price being arbitrated to 12.0 cents per Mcf between Northern Natural Gas Company and Cities Service Oil Company (another producer).

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement Nos. 9 and 10 to Stevens County's FPC Gas Rate Schedule No. 20 be suspended and the use thereof deferred as hereinafter ordered.

¹ Redetermination by arbitration of rate increase from 11.0 cents to 12.0 cents per Mcf.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement Nos. 9 and 10 to Stevens County's FPC Gas Rate Schedule No. 20.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until September 14, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-2830; Filed, Apr. 16, 1958;
8:47 a. m.]

[Docket No. G-14826]

W. H. HELMERICH, III, ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

APRIL 11, 1958.

W. H. Helmerich, III, et al. (Helmerich), on March 17, 1958, tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filings:

Description: (1) Supplemental Agreement,¹ dated March 1, 1958. (2) Notice of Change, dated March 13, 1958.

Purchaser: Northern Natural Gas Company.

Rate schedule designation: (1) Supplement No. 9 to Helmerich's FPC Gas Rate Schedule No. 2. (2) Supplement No. 10 to Helmerich's FPC Gas Rate Schedule No. 2.

Effective date: April 17, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Helmerich filed a copy of the agreement in which the seller and buyer agree to the increased price as a result of the price being arbitrated to 12.0 cents per Mcf between Northern Natural Gas Company and Cities Service Oil Company (Cities Service), another producer. In addition, Helmerich incorporates by reference the support

¹ Renegotiation by arbitration of increase of base rate of 12.0 cents per Mcf.

submitted by Cities Service for its increase to the effect that the proposed price is just and reasonable and is lower than the present market value for equivalent gas.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement Nos. 9 and 10 to Helmerich's FPC Gas Rate Schedule No. 2 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement Nos. 9 and 10 to Helmerich's FPC Gas Rate Schedule No. 2.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until September 17, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 58-2831; Filed, Apr. 16, 1958;
8:48 a. m.]

GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 334]

ATOMIC ENERGY COMMISSION

DELEGATION OF AUTHORITY REGARDING CONTRACT FOR ELECTRIC UTILITY SERVICE

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, herein called the act, authority is hereby delegated to the United States Atomic Energy Commission to enter into a contract in accordance with section 201 (a) (3) of the act, for a period not exceeding ten years for the purchase of electric utility services, not to exceed an additional maximum demand of 30,000 kilowatts, for the use

of the Idaho Operations Office of the Commission at the National Reactor Testing Station.

2. The delegation of authority shall be subject to all provisions of section 201 and Title III of the said act with respect to such contract, and to all provisions of law.

3. The authority delegated herein may be redelegated to any contracting officer or official of the Commission.

4. The Commission shall file a copy of said contract, and any amendment thereto, with the General Services Administration, as soon as practicable after the execution thereof.

5. This delegation of authority shall be effective as of the date hereof.

FRANKLIN FLOETE,
Administrator.

APRIL 10, 1958.

[F. R. Doc. 58-2637; Filed, Apr. 16, 1958;
8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3687]

JERSEY CENTRAL POWER & LIGHT CO.

NOTICE OF FILING OF APPLICATION

APRIL 10, 1958.

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), a public utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), an application regarding a proposal by Jersey Central to issue and sell to banks \$12,500,000 of notes; and has specified section 6 (b) of the act as applicable to the proposed transactions.

All interested persons are referred to the application on file at the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

Jersey Central, during a period of two years from the date of the Commission's Order granting this application, will issue and sell, prepay, and reissue from time to time its promissory notes, not to exceed an aggregate face amount of \$12,500,000 at any one time outstanding, to the following banks in the amounts indicated:

Irving Trust Co., New York, N. Y.	\$6,000,000
Bankers Trust Co., New York, N. Y.	4,500,000
Fidelity Union Trust Co., Newark, N. J.	1,800,000
The Summit Trust Co., Summit, N. J.	200,000
Total	12,500,000

Although the Credit Agreement with the above banks will permit Jersey Central to issue and reissue promissory notes thereunder with maturities up to four years from the date of the Commission's order herein, Jersey Central proposes that except pursuant to a further order or orders of the Commission issued in respect of a subsequent application, or

amendment to this application, filed with the Commission by the company it will not (a) issue and sell under said Credit Agreement any promissory note having a maturity later than a date two years from the Commission's order herein or (b) reborrow under said Credit Agreement the amount evidenced by any note or notes issued thereunder which shall have been paid from the proceeds of other securities issued by it. Notes issued pursuant to authority granted by the Commission in respect of the instant application will bear interest at the prime commercial rate of Irving Trust Company on the dates of issuance, and will be prepayable in whole or in part without premium unless such prepayment is effected from the proceeds, or in anticipation, of any bank borrowing (other than under the Credit Agreement) made by the company within two months of such prepayment, in which event a premium will be payable equal to $\frac{1}{2}$ of 1 percent of the principal amount of notes prepaid. Jersey Central will pay a commitment fee for two years from the date of the Commission's order herein computed on a daily basis equal to $\frac{1}{4}$ of 1 percent per annum on the unutilized balance of the commitment; the company may reduce or terminate the commitment upon five days prior notice.

The proceeds from the proposed borrowings are to be used by Jersey Central to finance its post-1957 construction program, or to repay its treasury for expenditures made for that purpose, or to repay notes the proceeds of which have been used for that purpose.

The application states that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed transactions, that an appropriate order of that Commission will be supplied for the record by amendment, and that no other State or Federal Commission, excepting this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions are estimated as follows:

Board of Public Utility Commissioners of New Jersey	\$500
Legal fees and expenses	3,750
Printing	750
Miscellaneous expenses	1,000
Total	6,000

Notice is further given that any interested person may, not later than April 25, 1958, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application as filed, or as it may hereafter be amended, may be granted, as provided by Rule 23 promulgated under the act, or the Commission may grant exemption from its rules under the act as provided

by Rules 20 (a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 58-2633; Filed, Apr. 16, 1958;
8:48 a. m.]

[File No. 70-3689]

METROPOLITAN EDISON CO.

NOTICE OF FILING OF APPLICATION

APRIL 10, 1958.

Notice is hereby given that Metropolitan Edison Company ("Meted") a public utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), an application and an amendment thereto regarding a proposal by Meted to issue and sell to banks \$12,500,000 of notes; and has specified section 6 (b) of the act as applicable to the proposed transactions.

All interested persons are referred to the application on file at the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

Meted, during a period of two years from the date of the Commission's order granting this application, will issue and sell, prepay, and re-issue from time to time its promissory notes, not to exceed an aggregate face amount of \$12,500,000 at any one time outstanding, to the following banks in the amounts indicated:

The First National City Bank of New York	\$5,500,000
The Marine Midland Trust Co. of New York	5,000,000
Fidelity-Philadelphia Trust Co.	1,200,000
Berks County Trust Co., Reading, Pa.	800,000
Total	12,500,000

Although the Credit Agreement with the above banks, under which the notes are to be issued, will permit Meted to issue and reissue promissory notes thereunder with maturities up to four years from the date of the Commission's order herein, Meted proposes that except pursuant to a further order or orders of the Commission issued in respect of a subsequent application, or amendment to this application, filed with the Commission by the company it will not (a) issue and sell under said Credit Agreement any promissory note having a maturity later than a date two years from the Commission's order herein or (b) reborrow under said Credit Agreement the amount evidenced by any note or notes issued thereunder which shall have been paid from the proceeds of other securities issued by it. Notes issued pursuant to authority granted by the Commission in respect of the instant application will bear interest at the prime commercial rate of The First National City Bank of

New York on the dates of issuance, and will be prepayable in whole or in part without premium unless such prepayment is effected from the proceeds, or in anticipation, of any bank borrowing (other than under the Credit Agreement) made by the company within two months of such prepayment, in which event a premium will be payable equal to $\frac{1}{2}$ of 1 percent of the principal amount of notes prepaid. Meted will pay a commitment fee for two years from the date of the Commission's order herein computed on a daily basis equal to $\frac{1}{4}$ of 1 percent per annum on the unutilized balance of the commitment; the company may reduce or terminate the commitment upon five days prior notice.

The proceeds from the proposed borrowings are to be used by Meted (a) to reimburse its treasury, in part, for construction expenditures made prior to January 1, 1958, and (b) to finance its post-1957 construction program, or to repay its treasury for expenditures made for that purpose, or to repay notes the proceeds of which have been used for that purpose.

The application states that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions, that an appropriate order of that Commission will be supplied for the record by amendment, and that no other State or Federal Commission, excepting this Commission, has jurisdiction over the proposed transactions.

The fees and expenses, including legal fees, to be incurred by Meted in connection with the proposed transactions are estimated at not to exceed \$4,500.

Notice is further given that any interested person may, not later than April 25, 1958, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application

which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application as filed, or as it may hereafter be further amended, may be granted, as provided by Rule 23 promulgated under the act, or the Commission may grant exemption from its rules under the act as provided by Rules 20 (a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 58-2834; Filed, Apr. 16, 1958;
8:48 a. m.]

[File No. 811-618]

UNIVERSAL FUND, INC.

NOTICE OF FILING OF APPLICATION

APRIL 11, 1958.

Notice is hereby given that Universal Fund, Inc. ("Applicant") of Chicago, Illinois, a Delaware corporation and a closed-end, diversified investment company registered under the Investment Company Act of 1940 ("act"), has filed an application pursuant to section 8 (f) of the act for an order declaring that it has ceased to be an investment company.

Applicant registered under the act as an investment company on December 29, 1952 following sale of its assets consisting of industrial buildings located in Chicago, Illinois. The dissolution and liquidation of Applicant was approved by a vote of its stockholders on January 25, 1954.

Following sale of all of Applicant's assets, cash in the aggregate amount of

\$344,226.92 was available for distribution to the 314 holders of its 33,280 outstanding shares of stock and for the payment of liquidation expenses.

Cash in the amount of \$335,339 has been distributed to shareholders and \$8,098.92 has been paid toward liquidating expenses. The remaining amount of \$789.00 will be paid to shareholders upon surrender of outstanding certificates or, if such certificates are not surrendered, in accordance with Applicant's certificate of incorporation, such sum will be applied toward unpaid expenses of liquidation.

Section 8 (f) of the act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 25, 1958, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request a hearing be held, such request stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 58-2832; Filed, Apr. 16, 1958;
8:48 a. m.]